

**ORDINARY COUNCIL MEETING**

**DEVELOPMENT APPLICATION  
COMPLIANCE REPORTS  
&  
UNDER SEPARATE COVER  
ATTACHMENTS**

**TUESDAY, 24 JUNE 2014**

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# Development Application Compliance Report



<b>Folder /DA No:</b>	DA/1153/2010/A
<b>PROPERTY:</b>	18 Dangar Street, RANDWICK NSW 2031
<b>Proposal:</b>	Section 96 modification of approved development by extending dwelling to rear at ground level by reducing size of deck, alterations to some openings, internal alterations, enclose first floor deck, and alteration to roof form. <b>Original consent:</b> Alterations and additions to the existing dwelling house including new first floor additions and new studio above the existing garage (Heritage Conservation Area)
<b>Recommendation:</b>	Approval

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## Relevant Environment Planning Instruments:

### 1. Randwick LEP 2012

The subject site is zoned R2 low density residential under Randwick LEP 2012. The proposal development is classified as alterations and additions to a single dwelling and is permissible in the zone. The zoning objectives are addressed as follows:

The following Clauses of RLEP 2012 apply to the proposal:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	0.75:1	0.6:1	Yes
Height of Building (Maximum)	9.5m	No change to overall height	Yes

### 2. Randwick Comprehensive DCP

#### 3.1 C1 Table: Low Density Residential

#### Randwick Development Control Plan

The DCP provisions are structured into two components, Objectives and Controls. The Objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

The relevant provisions of the DCP are addressed in the table below. (Note: a number of control provisions that are not related to the proposal have been deliberately omitted.)

DCP Clause	Controls	Proposal	Compliance
	<b>Classification</b>	Zoning = R2	
<b>2</b>	<b>Site planning</b>		

DCP Clause	Controls	Proposal	Compliance
<b>2.1</b>	<b>Minimum lot size and frontage</b>		
		418.1sqm and 9.145m frontage	
<b>2.5</b>	<b>Private open space (POS)</b>		
	<b>Dwelling POS</b>		
	301 to 450 sqm = 6m x 6m	Proposed = 12m by 9m. reduction of 1m in length due to the additions to the ground level living room	Yes
<b>3</b>	<b>Building envelope</b>		
<b>3.1</b>	<b>Floor space ratio LEP 2012 = 0.75:1</b>	Proposed FSR = 0.6:1	Yes
<b>3.2</b>	<b>Building height</b>		
	<b>Maximum overall height LEP 2012 = 9.5m</b>	Proposed = 7.03m	Yes
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m)	Proposed = 6.33m	Yes
<b>3.3</b>	<b>Setbacks</b>		
<b>3.3.2</b>	<b>Side setbacks:</b> Dwellings: <ul style="list-style-type: none"> <li>• Frontage b/w 9m and 12m = 900mm (Gnd &amp; 1<sup>st</sup> floor) 1500mm above</li> </ul> Refer to 6.3 and 7.4 for parking facilities and outbuildings	Proposed = 880mm and 950mm however no change from original	Yes
<b>3.3.3</b>	<b>Rear setbacks</b> <ul style="list-style-type: none"> <li>i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments.</li> <li>ii) Provide greater than aforementioned or demonstrate not required, having regard to:                             <ul style="list-style-type: none"> <li>- Existing predominant rear setback line - reasonable view sharing (public and private)</li> <li>- protect the privacy and solar access</li> </ul> </li> <li>iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions of this DCP.</li> </ul> Refer to 6.3 and 7.4 for parking facilities and outbuildings	Proposed = 18.2m to rear deck.	Yes
<b>4</b>	<b>Building design</b>		
<b>4.1</b>	<b>General</b>		
	Respond specifically to the site characteristics and the surrounding		Yes

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DCP Clause	Controls	Proposal	Compliance
	natural and built context - <ul style="list-style-type: none"> <li>articulated to enhance streetscape</li> <li>stepping building on sloping site,</li> <li>no side elevation greater than 12m</li> <li>encourage innovative design</li> </ul>		
<b>4.4</b>	<b>Roof Design and Features</b>		
	i) Rooftop terraces on dwelling (not roof) ii) Roof terraces above garages (low side) vii) Sympathetic to design of dwelling		Yes
<b>5</b>	<b>Amenity</b>		
<b>5.2</b>	<b>Energy Efficiency and Natural Ventilation</b>		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as: <ul style="list-style-type: none"> <li>Skylights (ventilated)</li> <li>Clerestory windows</li> <li>Fanlights above doorways</li> <li>Highlight windows in internal partition walls</li> <li>living rooms contain windows and doors opening to outdoor areas</li> </ul> Note: The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable		Yes
<b>5.3</b>	<b>Visual Privacy</b>		
	<b>Windows</b>		
	i) minimise any direct viewing habitable of proposed and neighbours habitable room windows by one or more of the following measures: <ul style="list-style-type: none"> <li>windows are offset or staggered</li> <li>minimum 1600mm window sills</li> <li>Install fixed and translucent glazing up 1600mm minimum effective sill.</li> <li>Install fixed privacy screens to windows.</li> <li>Creating a recessed courtyard (minimum 3m x 2m).</li> </ul> ii) orientate living and dining windows away from similar opposite (that is front or rear or side courtyard)		Reiterate the retention of condition 2a
	<b>Balcony</b>		
	i) Upper floor balconies to street or rear yard of the site. (wrap around balcony to have a narrow width at side) ii) Privacy screens		Requirement for privacy screens to the sides of the rear ground

DCP Clause	Controls	Proposal	Compliance
	iii) minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers) iv) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure) v) For sloping sites, step down and avoid large areas of ground floor decks or terraces.		level deck
<b>5.4</b>	<b>Acoustic Privacy</b>		
	i) noise sources not located adjacent to adjoining dwellings bedroom windows Attached dual occupancies ii) Reduce noise transmission between dwellings by: <ul style="list-style-type: none"> <li>- Locate noise-generating areas and quiet areas adjacent to each other.</li> <li>- Locate less sensitive areas adjacent to the party wall to serve as noise buffer.</li> </ul>		Yes
<b>7</b>	<b>Fencing and Ancillary Development</b>		
<b>7.4</b>	<b>Outbuildings</b>		
	i) Locate behind the front building line. ii) Locate to optimise backyard space and not over required permeable areas. iii) Except for laneway development, only single storey (3.6m max. height and 2.4m max. wall height) iv) Nil side and rear setbacks where: <ul style="list-style-type: none"> <li>- finished external walls (not requiring maintenance;</li> <li>- no openings facing neighbours lots and</li> <li>- maintain adequate solar access to the neighbours dwelling</li> </ul> v) First floor addition to existing may be considered subject to: <ul style="list-style-type: none"> <li>- Containing it within the roof form (attic) - Articulate the facades;</li> <li>- Use screen planting landscaping to visually soften the outbuilding;</li> <li>- Not be obtrusive when viewed from the adjoining properties;</li> <li>- Maintain adequate solar access to the adjoining dwellings; and</li> <li>- Maintain adequate privacy to the adjoining dwellings.</li> </ul> vi) Must not be used as a separate business premises.	No change in height of the outbuilding.  The entry from the rear of the subject site to the rear outbuilding is being reconfigured entry. There are no objections to this aspect of the modifications as they are located within the 3d envelope of the outbuilding and will not result in any adverse impact on the neighbouring properties.	Yes
<b>8</b>	<b>Area Specific Controls</b>		

DCP Clause	Controls	Proposal	Compliance
<b>8.1</b>	<b>Development in Laneways</b>		
	i) Max. 6m height. Max. 4.5m external wall height. Mass and scale to be secondary to primary dwelling and upper level contained within roof form (attic storey). ii) 1 operable window to laneway elevation (casual surveillance) iii) Aligns with consistent laneway setback pattern (if no consistent setback then 1m rear setback). (Refer to Sub-Section 6 for controls relating to setback to garage entry.) iv) Nil side setback allowed subject to: - adjoining building similarly constructed - no unreasonable visual, privacy and overshadowing impacts v) Screen or match exposed blank walls on adjoining properties (ie on common boundary).	No change to the height.	Yes

**3. 79C Matters for consideration**

Section 79C 'Matters for Consideration'	Comments
<b>Environmental Planning Instruments</b>	
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	<p><b>Randwick Local Environmental Plan 2012</b></p> <p>The site is zoned Residential R2 Low Density under Randwick Local Environmental Plan 2012 and the proposal is permissible with Council’s consent. See table below for compliance with development standards.</p> <p>The proposed modifications remain consistent with the specific objectives of the zone in that the proposed activity and built form will provide the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.</p>
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	N/A
Section 79C(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table below and key issues section in executive summary report
Section 79C(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	N/A
Section 79C(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.

Section 79C 'Matters for Consideration'	Comments
<b>Environmental Planning Instruments</b>	
Section 79C(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment, which are otherwise not addressed in this report, are discussed in the paragraphs below.</p> <p>The proposed development is consistent with the dominant residential character in the locality. The proposal would not considered result in detrimental social or economic impacts on the locality.</p>
Section 79C(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submission.
Section 79C(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

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**4. Referral Comments**

**Heritage planner**

**The Site**

The site is within the North Randwick heritage conservation area and is occupied by a single storey Federation style cottage retaining much of its original character including face brick walls and timber façade detailing, although original roofing has been replaced with concrete tiles. Surrounding dwellings generally maintain much of their original Federation character, with any upper level additions set well towards the rear.

**Background**

The original application proposed alterations and additions towards the rear including an upper level. The ground floor level included a new kitchen, dining and living area and rear deck. The first floor level included a new bedroom with ensuite, walk-in robe, side deck and storage area. A new double garage was also proposed at the rear of the site, accessed from Mort Lane, including upper level studio, store and bathroom.

Concerns were raised in relation to the height and bulk of the proposed outbuilding, and it was noted that there appeared to be some scope for a reduction in height to the sides. Subsequent amended plans lowered the height of the outbuilding, and made changes to the dwelling, including a new skylight.

**Proposal**

A Section 96 application has now been received which proposes internal and external changes at ground and first floor level. At ground floor level, within the front section of the dwelling, it is proposed to provide a robe and laundry in the area previously proposed as a robe, ensuite and laundry, including blocking an existing window and providing glass blocks to two new openings. The rear addition is also to be enlarged, encroaching 1m onto the proposed deck. At first floor level it is proposed to enclose a side balcony for use as a study. Changes are also



proposed to the rear outbuilding including enlarging the store and providing sliding glass doors to the rear wall of the garage with an enlarged stair. Changes are also proposed to roof forms at ground floor and first floor level and to the first floor level fenestration pattern.

### Submission

The original application was accompanied by a Statement of Environmental Effects which included a section on Heritage Conservation. The SEE noted that the height, setbacks and scale of the proposal were designed to ensure no adverse impact on the character of the streetscape, with the first floor additions setback from the front and side boundaries. The current application includes a supplementary SEE which has not recognised that the property is within a heritage conservation area and does not address heritage impact.

### Comments

#### Ground level changes

In relation to internal changes to the front section of the dwelling, these affect a rear bedroom which was previously proposed to contain a robe, ensuite and laundry. The three other rooms in the original front section of the dwelling will maintain their original layout and detailing. In relation to external changes to the front section of the dwelling, the original side window which is to be blocked is located well to the rear. The proposed glass block panels in the north elevation will have low visibility from the street due to the minimal setbacks between the subject dwelling and its northern neighbour.

#### Rear changes

There are no heritage objections to the proposal to enlarge the rear addition which was apparently enlarged in the late 1990s. The proposed addition is set well to the rear, affects secondary building fabric which has been previously modified, and will not be visible from the street.

#### Upper level changes

As the original upper level deck was to be unroofed, the proposed study will somewhat increase the building envelope. The proposed increased building envelope will not be significant however and will be hidden behind the stair and not be visible from the street. There are no heritage objections to the change.

#### Changes to roof forms and fenestration pattern

The proposed roof form will have a much heavier appearance and will be more prominent than the roof form originally proposed, and create an uncomfortable juxtaposition of the main steeply pitched roof and to low pitched roof on the upper level addition. The upper level addition however is set well to the rear and the ridge height will be maintained while the eaves height is lowered. The proposed changes to the roof form and to upper level fenestration will not significantly add to the prominence of the upper level addition. There are no heritage objections to the proposed change in roof form for the rear deck from parapeted form to a low pitched form. **It appears that a number of changes are proposed to materials and finishes, although details have not been provided.** A consent condition is included in the original determination requiring submission of detail of materials and finishes.

#### Outbuilding changes

The proposed outbuilding changes will not further increase the height of the structure. There are no heritage objections to the proposed changes which will not enlarge the building envelope.

### Development engineering

An application has been received to modify development consent for alterations and additions at the above site.

This report is based on the following plans and documentation:

- Architectural Plans DA0000-DA1501 by kvmzv architecture dated 12/2/14;

The modifications to the development consent relate to mainly minor internal alterations.

Development Engineering have reviewed the modified plans and advise there are no amended/additional Development Engineering conditions which relate to the subject application.

## 5. DEVELOPMENT CONSENT CONDITIONS

That Council, as the consent authority, grants development consent under Section 96 of the Environmental Planning and Assessment Act 1979, as amended, to modify the approved development by extending dwelling to rear at ground level by reducing size of deck, alterations to some openings, internal alterations, enclose first floor deck, and alteration to roof form, at No. 18 Dangar Street, Randwick, subject to the following non standard conditions and the standard conditions contained in the development application compliance report attached to this report:

- **Amend Condition No. 1 to read:**

### Approved Plans & Supporting Documentation

1. The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

The development must be implemented substantially in accordance with the:

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received</b>
DA-1301, Rev C	Candalepas	20/03/11	21 April 2011
DA-1302, Rev C	Associates	20/03/11	21 April 2011
DA-1101, Rev B		16/03/11	17 March 2011
DA-1102, Rev B		16/03/11	17 March 2011
DA-1103, Rev B		16/03/11	17 March 2011
DA-1201, Rev B		16/03/11	17 March 2011

<b>BASIX Certificate</b>	<b>No.</b>	<b>Dated</b>	<b>Received</b>
Alterations and additions	A102466	17 December 2010	29 December 2010

as amended by the **Section 96 plans listed below and detailed in the Section 96 application:**

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
DA101 Rev A	Kymzy architecture	12.02.14	20 March 2014
DA102 Rev A		12.02.14	20 March 2014
DA104 Rev A		12.02.14	20 March 2014
DA105 Rev A		12.02.14	20 March 2014
DA202 Rev A		12.02.14	20 March 2014
DA203 Rev A		12.02.14	20 March 2014
DA204 Rev A		12.02.14	20 March 2014
DA205 Rev A		12.02.14	20 March 2014
DA206 Rev A		12.02.14	20 March 2014
DA301 Rev A		12.02.14	20 March 2014
DA302 Rev A		12.02.14	20 March 2014
DA303 Rev A		12.02.14	20 March 2014
DA304 Rev A		12.02.14	20 March 2014
DA305 Rev A		12.02.14	20 March 2014
DA401 Rev A		12.02.14	20 March 2014
DA402 Rev A		12.02.14	20 March 2014
DA403 Rev A	12.02.14	20 March 2014	
DA404 Rev A	12.02.14	20 March 2014	

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<b><i>BASIX Certificate No.</i></b>	<b><i>Dated</i></b>	<b><i>Received by Council</i></b>
A174239_02		20 March 2014

***only in so far as they relate to the modifications highlighted on the Section 96 plans***, except as may be amended by the following conditions and as may be shown in red on the attached plans:

**Add the following condition:**

2. The approved plans and documents must be amended in accordance with the following requirements:
  - b. Privacy screens having a height of 1.8m above floor level must be provided to northern and southern sides of the rear ground level deck. The privacy screens must be constructed of metal or timber and the total area of any openings within the privacy screen must not exceed 25% of the area of the screen. Alternatively, the privacy screens may be constructed with translucent, obscured, frosted or sandblasted glazing in a suitable frame.

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# Development Application Compliance Report



<b>Folder /DA No:</b>	DA/263/2014
<b>PROPERTY:</b>	170 Botany Street, KINGSFORD NSW 2032
<b>Proposal:</b>	Alterations and conversion of the existing outbuilding to a secondary dwelling
<b>Recommendation:</b>	Approval

## Relevant Environment Planning Instruments:

### 1. SEPPs

#### 1.1 State Environmental Planning Policy (Affordable Rental Housing) 2009:

The application for a secondary dwelling would generally be prohibited development as specified by the Land Use Table for the Low Density Residential (R2) zone within the RLEP 2012. Nevertheless, the proposal may rely on the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009 for the construction of a secondary dwelling on the site.

#### Secondary Dwellings:

- 1) Development to which this Division applies may be carried out with consent.

#### Planner's Comment:

The subject site is zoned R2 Low Density Residential and the proposed secondary dwelling is permissible on the land.

- (2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.

#### Planner's Comment:

The proposed secondary dwelling will not result in there being any dwelling other than the principal dwelling as approved under DA/136/2001 and the secondary dwelling on the site.

- (3) A consent authority must not consent to development to which this Division applies unless:
  - (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and
  - (b) the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.

#### Planner's Comment:

The total floor area of the principal dwelling and the secondary dwelling is 0.497:1 (or 265m<sup>2</sup>) which is compliant with the maximum floor area allowed for a dwelling house under the RLEP 2012 of 0.65:1. Further, the total floor area of the secondary dwelling (33.5m<sup>2</sup>) complies with the development standard.

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- (4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:
- (a) **site area** if:
- (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or
  - (ii) the site area is at least 450 square metres,
- (b) **parking**  
if no additional parking is to be provided on the site.

Planner's Comment:

The size of the lot is greater than 450m<sup>2</sup> being 533.6m<sup>2</sup>.

The proposed parking demand generated by the secondary dwelling will not adversely impact on the availability of on street car parking. The proposal meets the parking control provisions as discussion below in B7 Table: Transport, Traffic, Parking and Access and is also considered to be consistent with the objectives of the Randwick Comprehensive DCP 2013.

- (5) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).

Planner's Comment:

The secondary dwelling meets the standards set out in subclause (4) (a) above and will comply with the relevant planning controls outlined in the Randwick Local Environmental Plan 2012.

Standard conditions are included within the consent to ensure that the secondary dwelling meets the requirements of the Building Code of Australia.

## 2. **Randwick Local Environmental Plan 2012 (LEP 2012)**

The subject site is zoned R2 - Low Density Residential under Randwick LEP 2012. The proposal development is classified as a secondary dwelling and is not permissible in the zone. However, as discussed above is a permissible use as per the State Environmental Planning Policy – Affordable Rental Housing 2009.

The SEPP was introduced on 31 July 2009 to increase the supply and diversity of affordable rental and social housing in NSW. The SEPP was amended on 20 May 2011 to require new in-fill development; low rise development; boarding houses, and Housing NSW proposals to be subject to a local character test to ensure that developments are consistent with the design of the local area and the affordable housing component being provided as a percentage of the total floor space. The amendment does not change provisions for other types of accommodation such as granny flats, group homes and supportive accommodation.

This application has been submitted seeking consent under Division 2 of the SEPP: Affordable housing 2009 for Secondary dwellings and its provisions will not be affected by the abovementioned review.

The zoning objectives are addressed as follows:

### ***Zone R2 – Low Density Residential***

The objectives of the R2 Low Density Residential zone that relate to the proposed development seek:

- To provide for the housing needs of the community within a low density residential environment;

- To enable other land uses that provide facilities or services to meet the day to day needs of residents;
- To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area;
- To protect the amenity of residents; and
- To encourage housing affordability.

The proposed secondary dwelling is considered to satisfy the objectives of the Low Density Residential R2 Zone in that the proposed development will maintain the desirable attributes of the established residential area. The effect of the proposal on the amenity of neighbouring sites, as discussed in the following sections of this report, are considered to be acceptable.

The following Clauses of RLEP 2012 apply to the proposal:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	Site area = 533.6m <sup>2</sup>  0.65:1 (or 346.84m <sup>2</sup> )	0.497:1 (or 265m <sup>2</sup> )	Yes
Height of Building (Maximum)	9.5m	No changes made to the existing outbuilding structure.	Not applicable.

**3. Randwick Comprehensive DCP**

**B7 Table: Transport, Traffic, Parking and Access**

**Parking & Service Delivery Requirements – Section 3**

**Vehicle Parking Rates – Section 3.2**

**Table 1 Vehicle Parking Rates**

Proposed use	Vehicle	Compliance
<b>RESIDENTIAL</b>		
Dwelling houses/dual occupancies, semi-detached dwellings, attached dwellings.	The proposed development is for a secondary dwelling. The existing dwelling is a 4 bedroom dwelling with study.	<p>The parking rate for a dwelling house with 3 or more bedrooms is 2 off-street parking spaces. The existing dwelling was approved for two carspaces within the basement level under DA/136/2001. The carspaces are accessed off Botany Street.</p> <p>No additional parking is provided for the site.</p> <p>It is noted that the Randwick comprehensive DCP 2013 does not require that any additional car parking facilities be provided where</p>

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Proposed use	Vehicle	Compliance
<b>RESIDENTIAL</b>		
		secondary dwellings are proposed; and it is also noted that there is no requirement specified within the provisions of the Affordable Rental Housing SEPP. (See section 1 above).  The proposal will comply with the minimum parking requirement for the site.

**C1 Table: Low Density Residential**

The DCP provisions are structured into two components, Objectives and Controls. The Objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

The relevant provisions of the DCP are addressed in the table below. (Note: a number of control provisions that are not related to the proposal have been deliberately omitted.)

DCP Clause	Controls	Proposal	Compliance
	<b>Classification</b>	Zoning = R2	Permissible under the State Environmental Planning Policy (Affordable Rental Housing) 2009.
<b>3</b>	<b>Building envelope</b>		
<b>3.1</b>	<b>Floor space ratio LEP 2012 =</b>	Site area = 533.6m <sup>2</sup>  Proposed FSR = 0.497:1 (or 265m <sup>2</sup> )	Complies
<b>5</b>	<b>Amenity</b>		
<b>5.3</b>	<b>Visual Privacy</b>		
	<b>Windows</b>		
	i) minimise any direct viewing habitable of proposed and neighbours habitable room windows by one or more of the following measures: - windows are offset or staggered - minimum 1600mm window sills - Install fixed and translucent glazing up 1600mm minimum effective sill. - Install fixed privacy screens to	Subject to condition the propopsed window openings and use as a secondary dwelling will not result in any unreaonable overlooking impacts.	Refer to Key Issues in the Executive Summary.

DCP Clause	Controls	Proposal	Compliance
	windows. - Creating a recessed courtyard (minimum 3m x 2m). ii) orientate living and dining windows away from similar opposite (that is front or rear or side courtyard)		
<b>7</b>	<b>Fencing and Ancillary Development</b>		
<b>7.4</b>	<b>Outbuildings</b>		
	i) Locate behind the front building line. ii) Locate to optimise backyard space and not over required permeable areas. iii) Except for laneway development, only single storey (3.6m max. height and 2.4m max. wall height) iv) Nil side and rear setbacks where: - finished external walls (not requiring maintenance; - no openings facing neighbours lots and - maintain adequate solar access to the neighbours dwelling v) First floor addition to existing may be considered subject to: - Containing it within the roof form (attic) - Articulate the facades; - Use screen planting landscaping to visually soften the outbuilding; - Not be obtrusive when viewed from the adjoining properties; - Maintain adequate solar access to the adjoining dwellings; and - Maintain adequate privacy to the adjoining dwellings. vi) Must not be used as a separate business premises.	The proposed development is not altering the form, height and scale of the existing outbuilding structure. The proposal is mainly for internal works, minor window modifications and conversion of the outbuilding for use as a secondary dwelling.	Not applicable. Refer to SEPP comments above regarding the use and permissibility.

**4. 79C Matters for consideration**

Section 79C 'Matters for Consideration'	Comments
<b>Environmental Planning Instruments</b>	
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	Refer to the “Environmental Planning Instruments” section of this report for details.
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 79C(1)(a)(iii) – Provisions of any	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table below.



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Section 79C 'Matters for Consideration'	Comments
<b>Environmental Planning Instruments</b>	
development control plan	
Section 79C(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 79C(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 79C(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	The environmental impacts of the proposed development on the natural and built environment, which are otherwise not addressed in this report, are discussed in the paragraphs below.  The proposed development is consistent with the dominant residential character in the locality. The proposal would not considered result in detrimental social or economic impacts on the locality.
Section 79C(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in the Executive Summary report.
Section 79C(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

**5. DEVELOPMENT CONSENT CONDITIONS**

**GENERAL CONDITIONS**

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of environmental amenity.

**Approved Plans & Supporting Documentation**

- The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received</i>
14/2/1	Ana Biserka Rakovac	January 2014	7 May 2014
14/2/2	Ana Biserka Rakovac	January 2014	7 May 2014

<i>BASIX Certificate</i>	<i>No.</i>	<i>Dated</i>	<i>Received</i>
	550003S	23 May 2014	23 May 2014

**Amendment of Plans & Documentation**

2. The approved plans and documents must be amended in accordance with the following requirements:
  - a. A new 1.8 metre high boundary fence must be provided to the western and southern side boundaries directly adjacent to the secondary dwelling. The fence to the southern boundary must run for a distance of at least 12 metres from the south western corner in order to provide adequate privacy between the properties. Suitable retaining walls may be required where necessary, but should be incorporated within the maximum fence height of 1.8m as measured from existing ground level.

**REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED**

The following conditions of consent must be complied with before a 'Construction Certificate' is issued by either Randwick City Council or an Accredited Certifier. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

**Consent Requirements**

3. The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.

**External Colours, Materials & Finishes**

4. The colours, materials and finishes of the external surfaces are to be compatible with the existing building and adjacent development to maintain the integrity and amenity of the building and the streetscape.

External materials, finishes and colours of the building are required to match, as closely as possible, the existing building and any metal roof sheeting is to be pre-painted (e.g. Colourbond) to limit the level of reflection and glare.

**Long Service Levy Payments**

5. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 109F of the *Environmental Planning & Assessment Act 1979*.

*At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.*

**Sydney Water**

6. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

Where applicable, the approved plans must be submitted to a Sydney Water Quick Check agent, to determine whether the development will affect Sydney Water's waste water and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

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If suitable, the plans will be appropriately stamped. For details please refer to the Sydney Water web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see *Building and Developing* then Quick Check and
- Guidelines for Building Over/Adjacent to Sydney Water Assets – see *Building and Development* then *Building and Renovating*, or telephone 13 20 92.

The Principal Certifying Authority must ensure that a Sydney Water Quick Check Agent has appropriately stamped the plans prior to issuing the construction certificate.

#### REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

#### Compliance with the Building Code of Australia

7. In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA). Details of compliance with the BCA are to be included in the construction certificate application.

#### BASIX Requirements

8. In accordance with section 80A(11) of the *Environmental Planning & Assessment Act 1979* and clause 97A of the *Environmental Planning & Assessment Regulation 2000*, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.

The required commitments listed and identified in the BASIX Certificate must be included on the construction certificate plans, specifications and associated documentation, to the satisfaction of the Certifying Authority.

The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.

#### Stormwater Drainage

9. Surface water from building work and structures must satisfy the following requirements (as applicable), to the satisfaction of the Certifying Authority and details are to be included in the construction certificate:-
- a) Surface water/stormwater drainage systems must be provided in accordance with the relevant requirements of the Building Code of Australia (Volume 2);
  - b) The surface water/stormwater is to be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit;
  - c) Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises or cause a nuisance;

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- d) External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises;
- e) Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works.

#### REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the *'Principal Certifying Authority'* (PCA), as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity.

#### Certification, PCA & other Requirements

10. Prior to the commencement of any building works, the following requirements must be complied with:
  - a) a *Construction Certificate* must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.  
  
A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
  - b) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
  - c) a *principal contractor* must be appointed for the building work, or in relation to residential building work, an *owner-builder* permit may be obtained in accordance with the requirements of the *Home Building Act 1989*, and the PCA and Council are to be notified accordingly; and
  - d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
  - e) at least two days notice must be given to the Council, in writing, prior to commencing any works.

*In relation to residential building work, the principal contractor must be the holder of a contractor licence, in accordance with the provisions of the Home Building Act 1989.*

#### **Home Building Act 1989**

11. In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, the requirements of the *Home Building Act 1989* must be complied with.

Details of the Licensed Building Contractor and a copy of the relevant Certificate of Home Warranty Insurance or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifying Authority and Council.

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**Construction Noise & Vibration**

12. Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents and the relevant requirements of the *Protection of the Environment Operations Act 1997* and NSW EPA Guidelines must be satisfied at all times.

**Public Utilities**

13. A *Public Utility Impact Assessment* must be carried out to identify all public utility services located on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to any building works.

Documentary evidence from the relevant public utility authorities confirming that the services will not be affected by the development or that their requirements are able to be satisfied, must be submitted to the Principal Certifying Authority prior to the commencement of any works.

The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Energy Australia, Sydney Water and other authorities to adjust, repair or relocate their services as required.

**REQUIREMENTS DURING CONSTRUCTION & SITE WORK**

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity during construction.

**Inspections During Construction**

14. The building works must be inspected by the *Principal Certifying Authority*, in accordance with sections 109 E (3) of the *Environmental Planning & Assessment Act 1979* and clause 162A of the *Environmental Planning & Assessment Regulation 2000*, to monitor compliance with the relevant standards of construction, Council’s development consent and the construction certificate.

**Site Signage**

15. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:
- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
  - name, address and telephone number of the *Principal Certifying Authority*,
  - a statement stating that “unauthorised entry to the work site is prohibited”.

**Restriction on Working Hours**

16. Building, demolition and associated site works must be carried out in accordance with the following requirements:

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> <li>• Monday to Friday - 7.00am to 5.00pm</li> <li>• Saturday - 8.00am to 5.00pm</li> <li>• Sunday &amp; public holidays - No work permitted</li> </ul>

<p>Excavating of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like</p>	<ul style="list-style-type: none"> <li>• Monday to Friday - 8.00am to 5.00pm</li> <li>• Saturday - No work permitted</li> <li>• Sunday &amp; public holidays - No work permitted</li> </ul>
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*An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.*

**Demolition Work Requirements**

17. The demolition of buildings must be carried out in accordance with Australian Standard 2601 (2001) – Demolition of Structures and the relevant requirements of WorkCover NSW, Randwick City Council's Asbestos Policy and the *Protection of the Environment Operations Act 1997*.

**Removal of Asbestos Materials**

18. Work involving the demolition, storage or disposal of asbestos products and materials must be carried out in accordance with the following requirements:

- Relevant Occupational Health & Safety legislation and WorkCover NSW requirements and Randwick City Council's Asbestos Policy
- A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10m<sup>2</sup> of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). A copy of the relevant licence must be provided to the Principal Certifying Authority.
- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2005*. Details of the landfill site (which must be lawfully able to receive asbestos materials) must be provided to the Principal Certifying Authority.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos removal contractor, building consultant, architect or experienced licensed building contractor), must be provided to Council and the Principal Certifying Authority upon completion of the asbestos related works which confirms that the asbestos material have been removed appropriately, in accordance with the relevant conditions of consent.

*A copy of Council's Asbestos Policy is available on Council's web site at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au) in the Building & Development Section or a copy can be obtained from Council's Customer Service Centre.*

**Public Safety & Site Management**

19. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with:

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- a) Public access to the building site and materials must be restricted by existing boundary fencing or temporary site fencing having a minimum height of 1.5m, to Council's satisfaction.

Temporary site fences are required to be constructed of cyclone wire fencing material and be structurally adequate, safe and constructed in a professional manner. The use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

- b) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- c) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- d) Building operations such as brick cutting, washing tools or equipment and mixing mortar are not permitted on public footpaths, roadways, nature strips, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system.
- e) Sediment and erosion control measures, must be implemented throughout the site works in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom, to Council's satisfaction.
- f) Site fencing, building materials, bulk bins/waste containers and other articles must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health, Building and Regulatory Services department.

#### **Support of Adjoining Land, Excavations & Retaining Walls**

20. Excavations and adjoining land must be adequately supported at all times and the following requirements must be satisfied:

- a) In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 E of the *Environmental Planning & Assessment Regulation 2000*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.
- b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely in accordance with appropriate professional standards and excavations must be properly guarded and supported to prevent them from being dangerous to life, property or buildings.
- c) Prior to undertaking any demolition, excavation or building work in the following circumstances, a report must be obtained from a *professional engineer* which details the methods of support for the dwelling or associated structure on the adjoining land, to the satisfaction of the *Principal Certifying Authority*:
- when undertaking excavation or building work within the zone of influence of the footings of a dwelling or associated structure that is located on the adjoining land;
  - when demolishing or constructing a wall of a dwelling that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling);
  - as otherwise required by the *Principal Certifying Authority*.

The work and provision of support to the adjoining land, must be carried out in accordance with the abovementioned report, to the satisfaction of the *Principal Certifying Authority*.

#### **Building Encroachments**

21. There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.

#### **Road/Asset Opening Permit**

22. A *Road / Asset Opening Permit* must be obtained from Council prior to commencing any excavations or works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the *Road / Asset Opening Permit* must be complied with.

For further information, please contact Council's Road / Asset Opening Officer on 9399 0691 or 9399 0999.

### **REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

The following conditions of consent must be complied with prior to the *Principal Certifying Authority* issuing an *Occupation Certificate*.

*Note: For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated.*

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

#### **Occupation Certificate Requirements**

23. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979*.

#### **BASIX Requirements**

24. In accordance with Clause 154B of the *Environmental Planning & Assessment Regulation 2000*, a Certifying Authority must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.

Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing an Occupation Certificate.

#### **Council's Infrastructure & Vehicular Crossings**

25. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works" and the following requirements:

- a) All work on Council land must be carried out by Council, unless specific written approval has been obtained from Council to use non-Council contractors.
- b) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a *Pre-paid Works Application Form*, prior to issuing an occupation certificate, together with payment of the relevant fees.

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- c) If it is proposed to use non-Council contractors to carry out the civil works on Council land, the work must not commence until the written approval has been obtained from Council and the work must be carried out in accordance with the conditions of consent, Council's design details and payment of a Council design and supervision fee.
- d) The civil works must be completed in accordance with Council's conditions of consent and approved design and construction documentation, prior to occupation of the development, or as otherwise approved by Council in writing.

### OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

#### Use of premises

26. The outbuilding is to be used as a secondary dwelling only at all times and must not be used for dual or multi-occupancy purposes and as a boarding house.

#### External Lighting

27. External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.

#### Waste Management

28. Adequate provisions are to be made within the premises for the storage and removal of waste and recyclable materials, to the satisfaction of Council.

#### Plant & Equipment

29. The operation of all plant and equipment on the premises shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997 and Regulations*.

In this regard, the operation of the plant and equipment shall not give rise to an  $L_{Aeq, 15 \text{ min}}$  sound pressure level at any affected premises that exceeds the background  $L_{A90, 15 \text{ min}}$  noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Office of Environment & Heritage (EPA) Noise Control Guidelines.

#### Rainwater Tanks

30. The operation of plant and equipment associated with rainwater tanks are to be restricted to the following hours if the noise emitted can be heard within a habitable room in any other residential premises:
- before 8.00am or after 8.00pm on weekends or public holiday; or
  - before 7.00am or after 8.00pm on weekdays.

### ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment*

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*Regulation 2000*, or other relevant legislation and Council's policies. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

- A1 The requirements and provisions of the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000*, must be fully complied with at all times.

Failure to comply with these requirements is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million. Alternatively, Council may issue a penalty infringement notice (for up to \$1,500) for each offence. Council may also issue notices and orders to demolish unauthorised or non-complying building work, or to comply with the requirements of Council's development consent.

- A2 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA) and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards and you are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.

- A3 Demolition, building or excavation work must not be commenced until;

- A *Construction Certificate* has been obtained from Council or an Accredited Certifier
- Council or an Accredited Certifier has been appointed as the *Principal Certifying Authority* for the development
- Council and the Principal Certifying Authority have been given at least 2 days notice (in writing) prior to commencing any works.

- A4 Council's Building Certification & Fire Safety team can issue your *Construction Certificate* and be your *Principal Certifying Authority* for the development, to undertake inspections and ensure compliance with the development consent, relevant building regulations and standards of construction. For further details contact Council on 9399 0944.

- A5 Smoke alarms are required to be installed in all residential dwellings, in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979* and the Building Code of Australia. Details should be included in the construction certificate application.

- A6 A Local Approval application must be submitted to and be approved by Council prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:-

- Install or erect any site fencing, hoardings or site structures
- Operate a crane or hoist goods or materials over a footpath or road
- Placement of a waste skip or any other container or article in a public place.

For further information please contact Council on 9399 0944.

- A7 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au) and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.

- A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:

- the consent of the owners of such adjoining or supported land to trespass or encroach, or
- an access order under the Access to *Neighbouring Land Act 2000*, or
- an easement under section 88K of the *Conveyancing Act 1919*, or
- an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

A9 Demolition work and removal of asbestos materials:

- *A copy of Council's Asbestos Policy is available on Council's web site at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au) in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.*
- *It is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.*

A10 Any external lighting to the premises should be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.

A11 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.

A12 Building owners and occupiers should consider implementing appropriate measures to prevent children from falling from high-level window openings and balconies (e.g. by installing window locking devices; installing heavy-duty screens to window openings; limiting the dimensions of any openings to 125mm; ensuring balustrades to balconies are at least 1m high and; locating fixtures, fittings and furniture away from high-level windows and balconies).

For further information about preventing falls from windows and balconies refer to [www.health.nsw.gov.au/childsafety](http://www.health.nsw.gov.au/childsafety) or pick-up a brochure from Council's Customer Service Centre.

# Development Application Compliance Report



<b>Folder /DA No:</b>	DA/627/2013
<b>PROPERTY:</b>	585 Bunnerong Road, MATRAVILLE NSW 2036
<b>Proposal:</b>	Alterations and additions to the existing service station facility including a raised canopy and bunding around the forecourt pump area, installation of a hand carwash facility including the erection of a canopy, an acoustic boundary fence, associated drainage works and conversion of part of the existing service station building for use as a waiting room for car wash patrons.
<b>Recommendation:</b>	Approval

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## Relevant Environment Planning Instruments:

### 1. SEPPs

State Environmental Planning Policy Infrastructure (2007).  
 Clauses 101 and 104 and Schedule 3 of the SEPP requires referral to the RMS and certain considerations with respect to in this case a service station; and a development which has frontage to a classified Road.

The RMS has responded indicating no objection to the proposal subject to the attachment of a number of advisory notes to the consent. These notes are included in the recommendation.

The considerations as required by section 104 of the SEPP have been addressed by the engineering services section and the proposal is considered acceptable.

### 2. Randwick LEP 2012/Existing Use Rights

The site is zoned R2 Low Density Residential under RLEP. The development application is a use that would be considered a merit based assessment as the use is only permissible under existing use rights. The prerequisite to establishing existing use rights is that the use of the building, work or land was lawfully granted and commenced prior to the current zoning controls being put into effect. In this respect, the existing service station is a recorded on going use since 1961. Council granted approval for partial change of use of the existing service station to a sales room (Development Consent No. 906/2010: alterations to the existing service station to convert a service bay into an extended sales room; approval granted on 30 December 2010). In view of the site history, it is considered that the existing service station is a non-conforming use within the R2 zone, and that existing use rights apply to the site under Part 4, Division 10 of the EP&A Act 1979 and Part 5 of the EP&A Regulation 2000.

Section 108(3) of the Act provides that any provisions in an instrument that would derogate from the "incorporated provisions" of the Act would have no force or effect. This effectively means that provisions of an environmental planning instrument which would restrict the intensification of an existing use do not apply. However, the provisions of relevant planning instruments, including aims, objectives and development standards can be considered as a guide in the context of a merit assessment of the proposal.

The aims of the RLEP are:

- (a) to foster a liveable city that is accessible, safe and healthy with quality public spaces and attractive neighbourhoods and centres,*
- (b) to support a diverse local economy and business and employment opportunities for the community,*
- (c) to support efficient use of land, vibrant centres, integration of land use and transport, and an appropriate mix of uses,*
- (d) to achieve a high standard of design in the private and public domain that enhances the quality of life of the community,*
- (e) to promote sustainable transport, public transport use, walking and cycling,*
- (f) to facilitate sustainable population and housing growth,*
- (g) to encourage the provision of housing mix and tenure choice, including affordable and adaptable housing, that meets the needs of people of different ages and abilities in Randwick,*
- (h) to promote the importance of ecological sustainability in the planning and development process,*
- (i) to protect, enhance and promote the environmental qualities of Randwick,*
- (j) to ensure the conservation of the environmental heritage, aesthetic and coastal character of Randwick,*
- (k) to acknowledge and recognise the connection of Aboriginal people to the area and to protect, promote and facilitate the Aboriginal culture and heritage of Randwick,*
- (l) to promote an equitable and inclusive social environment,*
- (m) to promote opportunities for social, cultural and community activities.*

The objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To allow the comprehensive redevelopment of land for primarily residential and open space purposes.*
- *To protect the amenity of residents.*
- *To encourage housing affordability.*
- *To enable small-scale business uses in existing commercial buildings.*

The proposal is considered consistent with the aims of the RLEP and the most relevant objective of the zone relates to the protection of amenity to existing residents.

Subject to consideration of the L & E Court principles established for consideration of existing uses, the amenity of existing residents will be reasonably protected.

The applicable development standards in the R2 zone relevant to the submitted application are a maximum floor space ratio of 0.5:1 and a maximum height of buildings of 9.5m. The existing and proposed structures on the site are well within these limitations.

The L& E Court Principles for existing uses are established in *Fodor Investments v Hornsby Shire Council* [2005] NSWLEC 71.

- ***How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?***

*While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites.*

*This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessment.*

**Comments:**

The proposal involves internal alterations to convert the remaining 2 service bays for use as a waiting room in conjunction with the proposed carwash facility. The proposed carport over the carwash area does not constitute additional floor area and as such the proposal does not seek additional floor space.

The existing floor area of buildings on the site is such that the proposed development in terms of bulk and scale is not out of character with the bulk and scale of developments adjoining and close to the site which consist of detached dwelling houses, shop top housing developments and residential flat developments from single storey to 3 stories in nature.

- ***What is the relevance of the building in which the existing takes place?***

*Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.*

**Comments:**

The proposal does not involve the demolition of existing buildings, rather the removal of internal walls to provide for the proposed car wash waiting area.

- ***What are the impacts on adjoining land?***

*The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.*

**Comments:**

The potential for impacts on adjoining properties include the following:

- Traffic impacts associated with additional movements associated with the proposed carwash facility.
- Noise and amenity impacts to surrounding residential properties.
- Drainage impacts associated with the increased runoff from the carwash facility.

With respect to traffic and drainage impacts, Council's engineering services unit identified several concerns in relation to the proposal as originally submitted. The matters have been overcome via the amended plans and subject to the attachment of standard conditions of consent there are no objections in relation to these aspects of the proposal. The complete comments in this regard are detailed in the referrals section of this report. The proposal will in fact facilitate improvements to the site by way of formalizing the existing drainage on the site to cater for the carwash runoff and connection to Sydney water, a bunding of the forecourt area and a covering of the existing diesel pump as per ongoing EPA requirements to progressively upgrade existing service stations all over NSW.

With respect to noise and potential amenity issues, it is noted that DA/372/2011 which proposed a carwash facility and alterations similar to the current proposal was eventually withdrawn due to completely deficient documentation. The proposed hours of operation in relation to that application were 7.00am – 7.00pm 7 days a week. The current proposal seeks consent for a daily operation of the carwash facility of 8.00am – 5.00pm only and this aspect has been supported in the acoustic report which accompanies the current application. This aspect has been reviewed by Council’s environmental services unit and the application is supported subject to the attachment of standard conditions.

- **What is the internal amenity?**

*Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.*

**Comments:**

The application as originally submitted showed insufficient detail in relation the movement of vehicles within the site. Amended details in this regard indicate a satisfactory flow of vehicles which might utilize the car wash facility and in relation to the service station component of the site. Parking provision has been reviewed by Council’s engineering services unit and accords to the requirements of Council’s DCP.

The following Clauses of RLEP 2012 apply to the proposal:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	0.5:1	No increase proposed. Well under that allowable.	Yes
Height of Building (Maximum)	9.5m	Approximately 6m	Yes

**3. 79C Matters for consideration**

Section 79C ‘Matters for Consideration’	Comments
<b>Environmental Planning Instruments</b>	
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	The relevant considerations under the RLEP are addressed in the body of this report.
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	N/A
Section 79C(1)(a)(iii) – Provisions of any development control plan	N/A
Section 79C(1)(a)(iiia) – Provisions of any	N/A

Section 79C 'Matters for Consideration'	Comments
<b>Environmental Planning Instruments</b>	
Planning Agreement or draft Planning Agreement	
Section 79C(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 79C(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment, which are otherwise not addressed in this report, are discussed in the paragraphs below.</p> <p>The proposed development is consistent with the dominant residential character in the locality. The proposal would not considered result in detrimental social or economic impacts on the locality.</p>
Section 79C(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 79C(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

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**4. Referral Comments**

**Roads and Maritime Services (RMS)**

As Bunnerong Road is a classified road where the service station is located, the application required referral to the RMS under section 104 and Schedule 3 of the SEPP Infrastructure (2007).

Subject to the attachment of a number of conditions that have been included in recommendation, the RMS raises no objection to the proposal.

The above matters have been considered in the assessment of the application and advisory notes as requested are included in the recommendation.

**Development Engineers**

The application was referred to the engineers on 2 occasions. Initially a number of deficiencies were identified. Amended plans were submitted and the following is an extract of the response received in relation to the amended plans:

*An application has been received for alterations to storeroom at existing service station for use as hand car wash facility, construction of new canopies, waiting room, new acoustic boundary wall, drainage and associated works at the above site.*

This report is based on the following plans and documentation:

- Amended Plans by Sam Khoury dated 17<sup>th</sup> October 2013;
- Statement of Environmental Effects stamped by Council 20<sup>th</sup> September 2013.



**General Comments**

The assessing officer is advised that the amended plans have generally satisfied Development Engineering's concerns and the application is now able to be supported.

**Drainage Easement**

As detailed in previous memo dated 16<sup>th</sup> January 2014 there is 450mm diameter Council stormwater pipe located within a 3.05m wide drainage easement at the rear of the property adjacent to the eastern boundary. Development Engineering did not support the building of any permanent structures within the stormwater easement as Council may need to effect repairs or replacement of the stormwater pipe at some point in the future.

The amended plans have now relocated all structures to outside the stormwater drainage easement with the exception of the 3m high acoustic wall and are generally acceptable.

The section of acoustic wall that crosses over Council's drainage easement along the eastern boundary will be required to be provided in a form that can be easily removed to facilitate future maintenance or replacement of the pipeline. Conditions relating to the acoustic wall have been included in this report.

**Waste Management**

A waste storage area is now indicated on the amended plans that generally reflects the location of existing waste storage. As the bins are not permanent there is no objection to them being placed over the stormwater drainage easement. The waste management provisions are now acceptable.

**Parking**Current Layout

There are currently 8 carspaces indicated on the site, 4 adjacent to the northern boundary and 4 at the southern end of the building however upon site inspection it was noted that the western two spaces along the northern boundary have been relabeled as No parking, presumably because of their inappropriate location close to the main vehicle access. Hence only 6 spaces are currently being used.

Proposed development

Ten carspaces are now proposed to be provided on the site with four spaces adjacent to the southern end of the building, 3 adjacent to the northern boundary, 1 adjacent to the Shirley Crescent frontage and two spaces adjacent to the northern boundary.

Of these, 4 spaces are for staff, 4 are for customers and 2 are for pickup for the car wash

The amended plans are considered are significant improvement on the original submission and have satisfactorily demonstrated an appropriate parking provision and vehicle management of the car wash facility.

When assessed against the parking rate of 1 space per 25m<sup>2</sup> specified in Council's DCP 2013 the service station will require a minimum of 6 spaces. As 10 have been provided the additional 4 spaces are considered adequate to provide for the additional demand generated by the car wash facility.

The layout and size of the carspaces comply with the minimum requirements of Australian Standard 2890.1:2004. The layout also facilitates a logical vehicle movement through the site and Development Engineering is satisfied the layout will work well with the additional parking demand and vehicle movement generated by the car wash facility.

**Response to Objections**

Traffic and vehicle entrance in Shirley Crescent

*It is noted objections from nearby residents have been received on customers for the car wash entering the subject site from Shirley Crescent.*

*After consideration however, Development Engineering raises no objections to this proposed entry/exit system as any increases in traffic will be limited to the site's Shirley Street site frontage thereby avoiding any traffic increases further into Shirley crescent past resident's dwellings. It is also likely that a significant portion of the customers for the car wash will first enter the site from Bunnerong Road and then drive internally through the site to the location of the car wash bay thereby avoiding Shirley Crescent altogether. These concerns are therefore considered not to be well founded and any increase in traffic further into Shirley crescent will be negligible. The intersection of Shirley Crescent and Bunnerong Road can easily accommodate the small amount of expected increase in traffic resulting from this proposal as most of the traffic will be a left turn in from Bunnerong Road.*

*Any queuing for the car wash facility is highly unlikely to extend into Shirley Crescent or Bunnerong Road. The improved provision of waiting and pickup parking is adequate considering the size of the facility.*

Drainage

*It is noted objections from nearby residents have been received on drainage provisions for the subject site. Drainage has been considered as part of the Development Engineer's assessment and suitable conditions have been included in this report. It should be noted that waste water runoff from the car wash facility will not be directed to Council's stormwater drainage system or the aquifer and shall be directed to Sydney Water's sewerage system in accordance with their requirements.*

*A Section 73 compliance certificate must also be obtained from Sydney water which will likely include detailed provisions for the waste water.*

Standard conditions as required are included in the recommendation.

**Environmental Services**

The matter was referred to the Environmental Services unit and the following response received.

**Proposed Development:**

*Council has received an application for a hand car wash facility and to convert a disused workshop into a waiting room and a store room at an existing service station at 585 Bunnerong Road, Matraville.*

**Comments:***Food Safety*

*Following inspections to the site, the current store room is used for food storage and after discussions with the operator, the proposed store room will continue to be used for food storage.*

*Appropriate conditions in relation to food safety have been included in this referral to ensure compliance with the relevant legislation.*

*Acoustic Amenity*

*An acoustic report prepared by Acoustic Dynamics Pty Ltd (Document no. 2981L001.AB.140219) dated 20 February 2014 was received by Council assessing the operational noise emission associated with the proposed additions and alterations of the service station development.*

*Acoustic Dynamics advises that the use and operation of the subject service station and car wash after following the recommendations contained in the report will achieve compliance with the relevant noise emission criteria and is unlikely to cause adverse impact to the acoustic amenity of nearby residents.*

*The recommendations included in the acoustic report will be included in the conditions of consent.*

*The hours of operation for the service station are not proposed to be changed and the proposed hours of operation for the car wash is as follows:*

*Monday to Sunday: 8:00am – 5:00pm*

*The potential for noise nuisance has been considered and appropriate conditions have been included in this referral.*

*Environmental Amenity*

*Complaints have previously been received by Council in relation to the operation of the site with regards to surface water runoff from the forecourt area into stormwater and noise from vehicles.*

*Following inspections with the EPA, it has been identified that there are still outstanding issues with the site in relation to complying with the UPSS Regulations.*

*Appropriate conditions in relation to waste and pollution control have been included in this referral to ensure compliance with the relevant legislation.*

Standard conditions as required are included in the recommendation.

**5. DEVELOPMENT CONSENT CONDITIONS**

**GENERAL CONDITIONS**

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979, Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of environmental amenity.

**Approved Plans & Supporting Documentation**

1. The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council’s approved stamp, except where amended by Council in red and/or by other conditions of this consent:

Plan Number / Title	Dated	Prepared By
2010/7/1C	02.02.14	Sam Khoury Consulting Engineer Pty Ltd.
A32010/10/5C	20.02.14	
A32010/10/6B	02.02.14	
2014/SK1/2/6A	30.04.14	Sam Khoury Consulting Engineer Pty Ltd.

**Amendment of Plans & Documentation**

2. The approved plans and documents must be amended in accordance with the following requirements and details are to be included in the Construction Certificate:
  - a) The car washing bay must be constructed with a minimum 20mm bund around the perimeter of the car washing bay.

- i) The car washing bay must be drained to sewer to the requirements of Sydney Water and details of compliance are to be submitted to the certifying authority, prior to a construction certificate being issued for the works.
- b) A 3m high boundary noise barrier is to be constructed to the extents shown on the plans submitted with the application. (Title: "Proposed Service Stn. Upgrade. Site Plan" Drawing No. 2010/7/1C)
  - i) The section of the barrier above the 2m double brick wall (except that section as required by condition 10) shall be constructed to have a minimum surface density of 15kg/m<sup>2</sup> and have a composite construction, with a transparent material towards the top, if required (12.6mm thick Perspex or a material with equivalent surface density could be used). This section shall be angled at 60 degrees to the horizontal. Details of compliance are to be confirmed by a suitably qualified and experienced consultant in acoustics and are to be submitted to the certifying authority, prior to a construction certificate being issued for the works.
- c) The underside of the Colorbond roof at the rear of the premises is to be treated with weather resistant and durable absorption, such as Envirospray 300® or equivalent to reduce reverberant build-up of noise within the outdoor washing area. Details of compliance are to be confirmed by a suitably qualified and experienced consultant in acoustics and are to be submitted to the certifying authority, prior to a construction certificate being issued for the works.
- d) The proposed bunding works and canopy over the existing diesel pump are deleted from the consent. The deletion is to be evident on the construction certificate drawings.

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**REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED**

The following conditions of consent must be complied with before a 'Construction Certificate' is issued by either an Accredited Certifier or Randwick City Council. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

**Consent Requirements**

- 3. The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.

**The following conditions are imposed to satisfy the requirements of the NSW Roads and Maritime Services**

- 4. Council should ensure that post development stormwater discharge from the subject site into the RMS drainage system does not exceed the pre development discharge.

Detailed Design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the RMS for approval, prior to the commencement of any works.

Details should be forward to:-

The Sydney Asset Management

PO Box 973  
Parramatta CBD NSW 2124

A plan checking fee may be payable and a performance bond may be required before RMSs approval is issued. With regard to the Civil Works requirement please contact RMSs Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

5. Adequate vehicle storage area at the car wash drop off area should be provided. In this regard consideration should be given for staff parking to be provided on street and the three proposed staff parking spaces should be used as additional vehicle storage for customers at the proposed drop off to the car wash area.
6. All vehicles are to enter and leave the site in a forward direction.
7. A Road Occupancy Licence should be obtained from the RMS for any works that may impact on traffic flows on Bunnerong Road during construction activities.
8. All traffic control during construction must be carried out by accredited RMS approved traffic controllers.
9. All cost associated with the development are to be at no cost to the RMS.

#### **External Colours, Materials & Finishes**

10. The colours, materials and surface finishes to the development must be consistent with the approved drawings.

#### **Section 94A Development Contributions**

11. In accordance with Council's Section 94A Development Contributions Plan effective from 2 July 2007, based on the development cost of \$134,750.00, the following applicable monetary levy must be paid to Council: **\$1347.05.00**

The levy must be paid in cash, bank cheque or by credit card prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment.

Council's Section 94A Development Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au).

#### **Long Service Levy Payments**

12. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 109F of the *Environmental Planning & Assessment Act 1979*.

*At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.*

#### **Security Deposit**

13. The following damage / civil works security deposit requirement must be complied with as security for making good any damage caused to the roadway, footway, verge or any public place; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A(6) of the *Environmental Planning and Assessment Act 1979*:

- \$1000.00 - Damage / Civil Works Security Deposit

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The damage/civil works security deposit may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.

The owner/builder is also requested to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.

To obtain a refund of relevant deposits, a *Security Deposit Refund Form* is to be forwarded to Council's Director of City Services upon issuing of an occupation certificate or completion of the civil works.

### **Stormwater Drainage**

14. The stormwater drainage system is to be provided in general accordance with the proposed stormwater plan submitted with the application and stamped by Council 27th February 2013 subject to the following amendments/requirements to the satisfaction of the PCA.

- a) Any amendments to the site's stormwater drainage system must be provided in accordance with the requirements of Australian Standard 3500.3:2003 (Plumbing & Drainage- Stormwater Drainage) to the satisfaction of the Certifying Authority and details are to be included in the construction certificate.
- b) Stormwater runoff from the redeveloped portion of the site is to be discharged to the street gutter or Council's underground drainage system in front of the site on Shirley Crescent

NOTE: Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council prior to the commencement of works.

- c) Waste Water from the car wash facility must be directed to the sewerage system in accordance with Sydney Water requirements.
- d) All paved areas on which a spillage of polluting materials may occur must be designed to prevent the entry of pollutants into Council's stormwater system external to the site.

### **Drainage Easement.**

15. The section of acoustic wall that crosses over Council's drainage easement must be in a form that can be easily removed to allow future maintenance or repair of the pipeline. Details are to be provided to Council for approval by Council's Engineers prior to the issuing of a construction certificate.
16. Any proposed footings located adjacent to the existing council drainage easement shall either be:
- A. Founded on rock, or;
  - B. Extend below a 30 degrees line taken from the level of the pipe invert at the edge of the drainage easement (angle of repose).

Structural details showing the accurate location of the pipeline and demonstrating compliance with this condition shall be submitted to Council's Drainage Engineer for approval prior to the issuing of a construction certificate.

### **Sydney Water**

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17. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

The approved plans must be submitted to a Sydney Water Quick Check agent, to determine whether the development will affect Sydney Water's waste water and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

If suitable, the plans will be appropriately stamped. For details please refer to the Sydney Water web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see *Building and Developing* then Quick Check and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see *Building and Development* then *Building and Renovating*, or telephone 13 20 92.

The Principal Certifying Authority must ensure that a Sydney Water Quick Check Agent has appropriately stamped the plans.

#### **Sydney Water**

18. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

The approved plans must be submitted to a Sydney Water Quick Check agent, to determine whether the development will affect Sydney Water's waste water and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

If suitable, the plans will be appropriately stamped. For details please refer to the Sydney Water web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see *Building and Developing* then Quick Check and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see *Building and Development* then *Building and Renovating*, or telephone 13 20 92.

The Principal Certifying Authority must ensure that a Sydney Water Quick Check Agent has appropriately stamped the plans.

19. The premises must be designed, constructed and operated in accordance with relevant regulatory requirements, guidelines and standards, including:

- Protection of the Environment Operations Act 1997
- Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008
- DECC Guidelines (including Environmental Action for Service Stations)
- Australian Standard AS 1940 (2004) - The Storage and Handling of Flammable and Combustible Liquids
- WorkCover NSW requirements and guidelines
- Sydney Water requirements and licences

A report detailing compliance with the relevant regulatory requirements, guidelines and standards must be prepared by a suitably qualified person and be submitted to the certifying authority **prior to issuing the construction certificate** for the development, with a copy forwarded to Council.

#### **REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE**

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

### **Compliance with the Building Code of Australia & Relevant Standards**

20. In accordance with section 80A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

### **Design, Construction & Fit-out of Food Premises**

21. The premises is to be designed and constructed in accordance with the *Food Act 2003*, *Food Regulation 2010*, Australia & New Zealand Food Standards Code, and Australian Standard AS 4674-2004: Design, construction and fit-out of food premises. Details of the design and construction of the premises are to be included in the documentation for the construction certificate to the satisfaction of the certifying authority.

22. The design and construction of the food premises must comply with the following requirements (as applicable):

- Floors of food preparation and food areas and the like are to be constructed of materials which are impervious, non slip and non abrasive. The floor is to be finished to a smooth even surface, graded and drained to a floor waste connected to the sewer. The intersection of walls with floor and plinths is to be coved, to facilitate cleaning.
- Walls of food areas and the like are to be of suitable construction finished in a light colour with glazed tiles, stainless steel, laminated plastics or similar approved material adhered directly to the wall adjacent to cooking and food preparation facilities or areas.

Glazed tiling or other approved material is to extend up to the underside of any mechanical exhaust ventilation hoods and a minimum of 450mm above bench tops, wash hand basins, sinks and equipment.

Walls where not tiled are to be cement rendered or be of rigid smooth faced non-absorbent material (i.e. fibrous cement sheeting, plasterboard or other approved material) and finished to a smooth even surface, painted with a washable paint of a light colour or sealed with other approved materials.

- Ceilings of kitchens, food preparation areas and storerooms are to be of rigid smooth-faced, non absorbent material (i.e. fibrous plaster, plasterboard, fibre cement sheet, cement render or other approved material) painted with a light-coloured washable paint. 'Drop-down' ceiling panels must not be provided in food preparation or cooking areas.
- All stoves, refrigerators, bain-maries, stock pots, washing machines, hot water heaters, large scales, food mixers, food warmers, cupboards, counters, bars etc must be supported on wheels, concrete plinths a minimum 75mm in height, metal legs minimum 150mm in height, brackets or approved metal framework of the like.
- Cupboards, cabinets, benches and shelving may be glass, metal, plastic, timber sheeting or other approved material. The use of particleboard or similar material is not permitted unless laminated on all surfaces.



- Fly screens and doors with self-closing devices, (where applicable), are to be provided to all external door and window openings and an electronic insect control device must also be provided within food premises.
- A mechanical ventilation exhaust system is to be installed where cooking or heating processes are carried out in the kitchen or in food preparation areas, where required under the provisions of Clause F4.12 of the BCA and Australian Standard AS 1668 Parts 1 & 2.
- Wash hand basins must be provided in convenient positions located in the food preparation areas, with hot and cold water, together with a sufficient supply of soap and clean towels. The hot and cold water must be supplied to the wash hand basins through a suitable mixing device.
- Cool rooms or freezers must have a smooth epoxy coated concrete floor, which is to be sloped to the door. A floor waste connected to the sewer is to be located outside the cool room/freezer. The floor waste should be provided with a removable basket within a fixed basket arrestor and must comply with Sydney Water requirements.
- All cool rooms and freezers must be able to be opened from the inside without a key and fitted with an alarm (bell) that can only be operated from within the cool room/freezer.
- Any space or gap between the top of any cool room or freezer and the ceiling must be fully enclosed and kept insect and pest proof (e.g. plasterboard partition with gaps sealed).

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#### **REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS**

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the *'Principal Certifying Authority'*, as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity.

#### **Certification and Building Inspection Requirements**

23. Prior to the commencement of any building works, the following requirements must be complied with:
- a) a Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.  
  
A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
  - a) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
  - b) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
  - c) at least two days notice must be given to the Council, in writing, prior to commencing any works.

**Dilapidation Reports**

24. A dilapidation report prepared by a professional engineer, building surveyor or other suitably qualified independent person must be submitted to the satisfaction of the Principal Certifying Authority prior to commencement of any demolition, excavation or building works, in the following cases:

- excavations for new buildings, additions to existing buildings which are proposed to be located within the *zone of influence* of the footings of a building located upon an adjoining premises,
- buildings sited up to shared boundaries,
- excavations for new buildings, additions to existing buildings which are within rock and may result in vibration and or potential damage to any building located upon an adjoining premises,
- as otherwise may be required by the *Principal Certifying Authority*.

The report (including photographs) is required to detail the current condition and status of the relevant building/s located upon the adjoining premises, which may be affected by the subject works. A copy of the dilapidation report is to be given to the owners of the premises encompassed in the report/s before commencing any works.

**Construction Site Management Plan**

25. A *Construction Site Management Plan* must be developed and implemented throughout the site works, to Council's satisfaction. The construction site management plan must include the following measures, (as applicable):

- location and construction of temporary site fencing / hoardings;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;
- provisions for public safety;
- dust control measures;
- details of proposed sediment and erosion control measures;
- site access location and construction;
- details of methods of disposal of demolition materials;
- protective measures for tree preservation;
- location and size of waste containers/bulk bins;
- provisions for temporary stormwater drainage;
- construction noise and vibration management;
- construction traffic management details;
- provisions for temporary sanitary facilities.

A copy of the Construction Site Management Plan must be provided to the Principal Certifying Authority and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.

**Construction Noise & Vibration Management Plan**

26. A *Construction Noise & Vibration Management Plan*, prepared in accordance with the Department of Climate Change Guidelines for Construction Noise and Assessing Vibration, by a suitably qualified person, is to be developed and implemented prior to commencing site work and throughout the course of construction.

- a) Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents.

Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management strategies.

- b) The *Construction Noise & Vibration Management Plan* must include details of measurements, analysis and relevant criteria and demonstrate that the noise and vibration emissions from the work satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997*, current DECC Guidelines for Construction Noise and Assessing Vibration and Councils conditions of consent.
- c) Any recommendations and requirements contained in the *Construction Noise & Vibration Management Plan* and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to Council and the PCA.

A copy of the *Construction Noise & Vibration Management Plan* and associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to Council and the Principal Certifying Authority accordingly.

#### **Public Liability**

27. The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$10 million and a copy of the Insurance cover is to be provided to the Principal Certifying Authority and Council.
28. Any necessary approvals must be obtained from NSW Police, Roads & Maritime Services, and relevant Service Authorities, prior to commencing work upon or within the road, footway or nature strip.

#### **Public Utilities**

29. A *Public Utility Impact Assessment* must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.
30. The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.

#### **REQUIREMENTS DURING CONSTRUCTION & SITE WORK**

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity during construction.

#### **Inspections during Construction**

31. The building works must be inspected by the *Principal Certifying Authority*, in accordance with sections 109 E (3) of the *Environmental Planning & Assessment Act 1979* and clause 162A of the *Environmental Planning & Assessment Regulation 2000*, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

#### **Building & Demolition Work Requirements**

32. All demolition and building work and associated activities must be carried out in accordance with the following requirements:
- Work Health & Safety Act 2011 & Regulations
  - WorkCover NSW Code of Practice for the Safe Removal of Asbestos
  - WorkCover NSW Requirements, Guidelines and Codes of Practice

- Australian Standard 2601 (2001) – Demolition of Structures
- The Protection of the Environment Operations Act 1997
- The Protection of the Environment Operations (Waste) Regulation 2005
- DECC/EPA Waste Classification Guidelines
- Randwick City Council's Asbestos Policy

*A copy of Council's Asbestos Policy is available on Council's web site at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au) in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.*

*It is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.*

33. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures and relevant environmental/occupational health and safety requirements.

The Demolition Work Plan must be submitted to the Principal Certifying Authority (PCA) and Council, not less than two (2) working days before commencing any demolition work. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.

#### **Excavations, Back-filling & Retaining Walls**

34. All excavations and backfilling associated with the erection or demolition of a building must be executed safely in accordance with appropriate professional standards and excavations must be properly guarded and supported to prevent them from being dangerous to life, property or buildings.

Retaining walls, shoring or piling must be provided to support land which is excavated in association with the erection or demolition of a building, to prevent the movement of soil and to support the adjacent land and buildings, if the soil conditions require it. Adequate provisions are also to be made for drainage.

Details of proposed retaining walls, shoring, piling or other measures are to be submitted to and approved by the *Principal Certifying Authority*.

#### **Support of Adjoining Land**

35. Accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 E of the *Environmental Planning & Assessment Regulation 2000*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.

#### **Sediment & Erosion Control**

36. Sediment and erosion control measures, must be implemented throughout the site works in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom, to Council's satisfaction.

Details must be shown in a *Sediment and Erosion Control Plan*, including; a site plan; indicating the slope of land, access points & access control measures, location and type of sediment & erosion controls, location of existing vegetation to be retained, location of material stockpiles and storage areas, location of building operations and equipment, methods of sediment control, details of drainage systems and details of existing and proposed vegetation.

A copy of the Sediment and Erosion Control Plan must be provided to the Principal Certifying Authority and Council. A copy must also be maintained on site and be made available to Council officers upon request.

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**Dust Control**

37. During demolition excavation and construction works, dust emissions must be minimised, so as not to result in a nuisance to nearby residents or result in a potential pollution incident.

Adequate dust control measures must be provided to the site prior to the works commencing and the measures and practices must be maintained throughout the demolition, excavation and construction process, to the satisfaction of Council.

Dust control measures and practices may include:-

- Provision of geotextile fabric to all perimeter site fencing (attached on the prevailing wind side of the site fencing).
- Covering of stockpiles of sand, soil and excavated material with adequately secured tarpaulins or plastic sheeting.
- Installation of a water sprinkling system or provision hoses or the like.
- Regular watering-down of all loose materials and stockpiles of sand, soil and excavated material.
- Minimisation/relocation of stockpiles of materials, to minimise potential for disturbance by prevailing winds.
- Landscaping and revegetation of disturbed areas.

**Temporary Site Fencing**

38. Temporary site safety fencing or site hoarding must be provided to the perimeter of the site throughout demolition, excavation and construction works, to the satisfaction of Council, in accordance with the following requirements:

- a) Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), or heavy-duty plywood sheeting (painted white), or other material approved by Council.
- b) Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.
- c) All site fencing and hoardings must be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.
- d) An overhead ('B' Class) type hoarding is required is be provided to protect the public (unless otherwise approved by Council) if:
  - materials are to be hoisted (i.e. via a crane or hoist) over a public footway;
  - building or demolition works are to be carried out on buildings which are over 7.5m in height and located within 3.6m of the street alignment;
  - it is necessary to prevent articles or materials from falling and causing a potential danger or hazard to the public or occupants upon adjoining land;
  - as may otherwise be required by WorkCover, Council or the PCA.

*Notes:*

- *Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.*
- *If it is proposed to locate any site fencing, hoardings, amenities or articles upon any part of the footpath, nature strip or public place at any time, a separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.*

**Public Safety & Site Management**

39. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with:
- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
  - b) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
  - c) Building operations such as brick cutting, washing tools or equipment and mixing mortar are not permitted on public footpaths, roadways, nature strips, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system.
  - d) Access gates and doorways within site fencing, hoardings and temporary site buildings or amenities must not open outwards into the road or footway.
  - e) Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council’s Health, Building and Regulatory Services department.
  - f) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual “Traffic Control at Work Sites” (Version 4), to the satisfaction of Council.

**Site Signage**

40. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:
- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
  - name, address and telephone number of the *Principal Certifying Authority*,
  - a statement stating that “unauthorised entry to the work site is prohibited”.

**Restriction on Working Hours**

41. Building, demolition and associated site works must be carried out in accordance with the following requirements:

<b>Activity</b>	<b>Permitted working hours</b>
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> <li>• Monday to Friday - 7.00am to 5.00pm</li> <li>• Saturday - 8.00am to 5.00pm</li> <li>• Sunday &amp; public holidays - No work permitted</li> </ul>
Excavating of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> <li>• Monday to Friday - 8.00am to 1.00pm only</li> <li>• Saturday - No work permitted</li> <li>• Sunday &amp; public holidays - No work permitted</li> </ul>
Additional requirements for all development	<ul style="list-style-type: none"> <li>• Saturdays and Sundays where the preceding Friday and/or the following</li> </ul>

	Monday is a public holiday - No work permitted
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An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.

**Building Encroachments**

- 42. There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.

**REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**  
 The following conditions of consent must be complied with prior to the 'Principal Certifying Authority' issuing an 'Occupation Certificate'.  
  
*Note: For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated.*  
  
 These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979, Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

**Occupation Certificate Requirements**

- 43. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979*.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The relevant requirements of the *Environmental Planning & Assessment Act 1979* and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

**Fire Safety Certificates**

- 44. Prior to issuing an interim or final Occupation Certificate, a single and complete *Fire Safety Certificate*, encompassing all of the essential fire safety measures contained in the *fire safety schedule* must be obtained and be submitted to Council, in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000*. The *Fire Safety Certificate* must be consistent with the *Fire Safety Schedule* which forms part of the Construction Certificate.

A copy of the *Fire Safety Certificate* must be displayed in the building entrance/foyer at all times and a copy must also be forwarded to Fire and Rescue NSW.

**Structural Certification**

- 45. A Certificate must be obtained from a *professional engineer*, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the *Principal Certifying Authority*. A copy of which is to be provided to Council.

**Council's Infrastructure, Vehicular Crossings, street verge**

- 46. The applicant must meet the full cost for Council or a Council approved contractor to:

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- a. Re-Construct damaged layback and crossing as required opposite the vehicular entrance to the site in Shirley Crescent.
47. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
48. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works" and the following requirements:
- a) All work on Council land must be carried out by Council, unless specific written approval has been obtained from Council to use non-Council contractors.
- b) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Pre-paid Works Application Form, prior to an occupation certificate being issued for the development, together with payment of the relevant fees.
- c) If it is proposed to use non-Council contractors to carry out the civil works on Council land, the work must not commence until the written approval has been obtained from Council and the work must be carried out in accordance with the conditions of consent, Council's design details and payment of a Council design and supervision fee.
- d) The civil works must be completed in accordance with Council's conditions of consent and approved design and construction documentation, prior to occupation of the development, or as otherwise approved by Council in writing.
49. That part of the naturestrip upon Council's footway which is damaged during the construction of the proposed works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicants expense.

#### **Stormwater Drainage**

50. The Principal Certifying Authority (PCA) shall be satisfied that any adjustments to the site's stormwater drainage system have been constructed in accordance with the conditions of this consent Australian Standard 3500.3:2003 (Plumbing & Drainage-Stormwater Drainage).

#### **Sydney Water Requirements**

51. A section 73 Compliance Certificate, under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. An Application for a Section 73 Certificate must be made through an authorised Water Servicing Coordinator. For details, please refer to the Sydney Water web site [www.sydneywater.com.au](http://www.sydneywater.com.au) > Building and developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

Please make early contact with the Water Servicing Co-ordinator, as building of water/sewer extensions may take some time and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority and the Council prior to the issuing of an Occupation Certificate.



**OPERATIONAL CONDITIONS**

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

**Fire Safety Statements**

52. A single and complete *Fire Safety Statement* (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the *Environmental Planning & Assessment Regulation 2000*.

The *Fire Safety Statement* must be provided on an annual basis each year following the issue of the *Fire Safety Certificate*, and other period if any of the fire safety measures are identified as a *critical fire safety measure* in the *Fire Safety Schedule*.

The *Fire Safety Statement* is required to confirm that all the fire safety measures have been assessed by a properly qualified person and are operating in accordance with the standards of performance specified in the *Fire Safety Schedule*.

A copy of the *Fire Safety Statement* must be displayed in the building entrance/foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.

53. The premises must be designed, constructed and operated in accordance with relevant regulatory requirements, guidelines and standards, including:

- *Protection of the Environment Operations Act 1997*
- *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008*
- *Food Act 2003*
- Sydney Water requirements and licences

54. The operation of the car wash is restricted to the following hours of operation:

Monday to Sunday: 8:00am – 5:00pm

The operation of the existing service station is restricted to the following hours of operation:

Monday to Saturday: 6.00am – 10.00pm

Sunday 6.00am – 9.00pm

Fuelling and or unloading of fuel shall not occur outside the approved hours of operation.

55. The car wash facility is to be occupied by a maximum of 2 vehicles being washed at any 1 time. No trucks of any kind are permitted to be washed in the car wash facility or anywhere on the site.

56. An acoustic report, prepared by a suitably qualified and experienced consultant in acoustics, must be provided to the Council **within 1 month of the issuing of an occupation certificate**, which demonstrates and confirms that the relevant provisions of the *Protection of the Environment Operations Act 1997* and the noise criteria and requirements contained in this consent has been satisfied (including any relevant approved acoustic report and recommendations). The assessment and report must include all relevant fixed and operational noise sources.

Should further non-compliances be identified, recommendations shall be provided by a suitably qualified and experienced consultant in acoustics and subsequent acoustic assessments conducted to demonstrate and confirm compliance with the relevant requirements.

57. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background ( $L_{A90}$ ),  $15 \text{ min}$  noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as an  $L_{Aeq, 15 \text{ min}}$  and adjusted in accordance with the NSW Environmental Protection Authority's Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).

58. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises.
59. The use and operation of the premises shall not give rise to an environmental health or public nuisance.
60. There are to be no emissions or discharges from the premises which give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations.
61. The storage of boxes, cartons, pallets, goods or any other material relating to the operation of the business must be wholly contained within the premises.
62. All loading and unloading associated with the use or operation of the premises shall be carried out within the site.
63. No goods, or machinery or advertising signs are to be placed on Council's footway at any time, unless the prior written approval has been obtained from Council.

#### **Stormwater Detention/Infiltration System**

64. The detention area/infiltration system must be regularly cleaned and maintained to ensure it functions as required by the design.
65. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises.
66. Environmental amenity
67. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations.
68. All tanker deliveries only being made between 6.00am and 10.00pm, Monday to Saturday only. No deliveries are to occur on Sundays.

#### **Food Storage**

69. All food preparation, cooking, display and storage activities must only be carried out within the approved food premises.

Storage shall be within appropriate shelves, off the floor and in approved storage containers. External areas or structures must not be used for the storage, preparation or cooking of food, unless otherwise approved by Council in writing and subject to any necessary further approvals.

### Food Safety Requirements

70. The food premises must be registered with Council's Health, Building & Regulatory Services Department and the NSW Food Authority in accordance with the Food Safety Standards, prior to commencing business operations.
71. A *Food Safety Supervisor* must be appointed for the business and the NSW Food Authority and Council must be notified of the appointment, in accordance with the *Food Act 2003*, prior to commencing business operations. A copy of which must be maintained on site and be provided to Council officers upon request.
72. Food safety practices and the operation of the food premises must be in accordance with the *Food Act 2003*, Food Regulation 2004, *Food Standards Code* and Food Safety Standards at all times, including the requirements and provisions relating to:
- Food handling – skills, knowledge and controls.
  - Health and hygiene requirements.
  - Requirements for food handlers and businesses.
  - Cleaning, sanitising and maintenance.
  - Design and construction of food premises, fixtures, fitting and equipment.

The Proprietor of the food business and all staff carrying out food handling and food storage activities must have appropriate skills and knowledge in food safety and food hygiene matters, as required by the Food Safety Standards.

Failure to comply with the relevant food safety requirements is an offence and may result in legal proceedings, service of notices and/or the issuing of on-the-spot penalty infringement notices.

73. The food premises must be kept in a clean and sanitary condition at all times, including all walls, floors, ceilings, fixtures, fittings, appliances, equipment, fridges, freezers, cool rooms, shelving, cupboards, furniture, crockery, utensils, storage containers, waste bins, light fittings, mechanical ventilation & exhaust systems & ducting, storage areas, toilet facilities, basins and sinks.

### Waste Management

74. Adequate provisions are to be made within the confines of the site for the storage, collection and disposal of waste and recyclable materials, to the satisfaction of Council, prior to commencing business operations in relation to the car wash facility. **The bin storage containers shall be stored adjacent to the retaining wall shown below the ice container and not adjacent to adjoining residential boundaries.**

The waste storage area must be located within the property and not within any areas used for the preparation or storage of food.

Waste/recyclable bins and containers must not be placed on the footpath (or road), other than for waste collection, in accordance with Council's requirements.

75. Trade/commercial waste materials must not be disposed via council's domestic garbage service. All trade/commercial waste materials must be collected by Council's Trade Waste Service or a waste contractor authorised by the Waste Service of New South Wales and details of the proposed waste collection and disposal service are to be submitted to Council prior to commencing operation of the business.

### Sanitary Facilities

76. Sanitary facilities, plus wash hand basin and paper towel dispenser or hand dryer and appropriate signage, must be available for customers and staff and be maintained in a clean and sanitary condition at all times.

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**GENERAL ADVISORY NOTES**

The following information is provided for your assistance to ensure compliance with the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, or other relevant legislation and requirements. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

A1 The Office of Water, NSW Department of Primary Industry provides the following advisory comments on the proposal:

A2 The requirements and provisions of the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000*, must be fully complied with at all times.

Failure to comply with these requirements is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million. Alternatively, Council may issue a penalty infringement notice (for up to \$3,000) for each offence. Council may also issue notices and orders to demolish unauthorised or non-complying building work, or to comply with the requirements of Council's development consent.

A3 Building or excavation work must not be commenced until;

- A Construction Certificate has been obtained from an Accredited Certifier or Council
- An Accredited Certifier or Council has been appointed as the Principal Certifying Authority for the development
- Council and the Principal Certifying Authority have been given at least 2 days notice (in writing) prior to commencing any works.

Council's *Building Approvals & Certification team* can issue Construction Certificates and be your Principal Certifying Authority for the development, to undertake inspections and ensure compliance with the development consent, relevant building regulations and standards of construction. For further details contact Council's *Building Approvals & Certification team* on 9399 0944.

A4 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA), Disability (Access to Premises – Buildings) Standards 2010 and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards. You are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.

A5 Any proposed amendments to the design and construction of the building may require a new development application or a section 96 amendment to the existing consent to be obtained from Council, before carrying out such works

A6 The *Principal Certifying Authority* must specify the relevant stages of construction to be inspected and a satisfactory inspection must be carried out, to the satisfaction of the *Principal Certifying Authority*, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

A7 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place, to the satisfaction of the Certifying Authority.

A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:

- the consent of the owners of such adjoining or supported land to trespass or encroach, or
- an access order under the *Access to Neighbouring Land Act 2000*, or
- an easement under section 88K of the *Conveyancing Act 1919*, or
- an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

- A9 Finished ground levels external to the building are to be consistent with the development consent and are not to be raised, other than for the provision of approved paving or the like on the ground.

External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to any adjoining land.

- A10 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au) and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.

- A11 A Local Approval application must be submitted to and be approved by Council's Building Approvals & Certification team prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:-

- Install or erect any site fencing, hoardings or site structures
- Operate a crane or hoist goods or materials over a footpath or road
- Placement of a waste skip or any other container or article in a public place.

For further information please contact Council's Building Approvals & Certification team on 9399 0944.

- A12 There are to be no emissions or discharges from the premises, which will give rise to an environmental or public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.

- A13 Any external lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.

- A14 The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.

- A15 The assessment of this development application does not include an assessment of the proposed building work under the Food Act 2003, Food Safety Standards or Building Code of Australia (BCA).

All new building work must comply with relevant regulatory requirements and Australian Standards and details of compliance are to be provided in the *construction certificate* application.

- A16 The design and construction of the premises must satisfy the requirements of the Food Act 2003, Food Standards Code and AS 4674 (2004). Prior to finalising the design and

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fit-out for the development and prior to a *construction certificate* being obtained, advice should be obtained from an accredited Food Safety Consultant (or Council's Environmental Health Officer).

- A17 The applicant/operator is advised to engage the services of a suitably qualified and experienced Acoustic consultant, prior to finalising the design and construction of the development, to ensure that the relevant noise criteria and conditions of consent can be fully satisfied.

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