



**Randwick City
Council**
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DA COMPLIANCE REPORTS

**ORDINARY COUNCIL MEETING
TUESDAY 28 JULY 2015**

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Development Application Compliance Report



Folder /DA No:	DA/94/2015
PROPERTY:	54A Bream Street, COOGEE NSW 2034
Proposal:	Conversion of the subfloor space of the existing residential flat building into a new one bedroom dwelling (variation to floor space ratio control)
Recommendation:	Refusal

Relevant Environment Planning Instruments:

1. Environmental Planning and Assessment Regulation

Consideration of the requirements of the Regulation in part turns on whether this application is subject to SEPP 65. Further commentary on that matter is provided below however, in short, that SEPP applies.

Given that, Clause 50 of the Regulation nominates information to accompany a development application generally, with specific requirements for matters relating to residential flat buildings. The requirements of the Regulation are not satisfied for the following reasons:

- Although the application is supported by the required statement verifying how the proposal responds to the 10 design quality principles in Part 2 of SEPP 65 are achieved, there is no Design Verification Statement from a qualified designer (i.e. Registered Architect); and
- Part 1, Schedule 1, clause 2(5) nominates a range of information that must accompany a development application for a residential flat building. Given the scope of the works relative to the existing building the supply of much of that information would be of little assistance in the valuation of this matter.

2. SEPPs

State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 aims to promote the remediation of contaminated land for the purposes of reducing risk of harm to human health or any other aspect of the environment. As the site has been used for residential purposes for many years no specific investigations regarding the potential for land contamination is required.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

This Policy aims to improve the design quality of residential flat development. On 19 June 2015 the Policy was amended, introducing changes to the design quality principles and replacing the Residential Flat Design Code (RFDC) with the Apartment Design Guide (ADG). However those amendments are only required to be considered for applications lodged after 19 July, 2015 and are therefore not applicable to this proposal.

The existing building meets the definition of a "residential flat building" as defined in this Policy. Clause 4 prescribes how this application is to be applied, as follows:

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"4 Application of Policy

- (1) *This Policy applies to development being:*
- (a) *the erection of a new residential flat building, and*
 - (b) *the substantial redevelopment or the substantial refurbishment of an existing residential flat building, and*
 - (c) *the conversion of an existing building to a residential flat building"*

The scope of works, being the modification of the subfloor to create an additional dwelling, is considered to meet (b) above, and therefore the Policy is applicable. This conclusion is further supported by the following circumstances:

- Referral of the application for consideration by Council's Design Review Panel; and
- The applicant's submission of a statement addressing how the application responds to the 10 design principles in the Policy.

Assessment relative to the Policy is therefore set out below.

Design Quality Principles

Part 2 of the Policy introduces 10 design quality principles. These principles do not generate design solutions, but provide a guide to achieving good design and the means of evaluating the merits of proposed solutions.

As required by the Environmental Planning and Assessment Regulation, the application is accompanied by a response to the design principles, prepared by the project architect. It is noted that as part of the preDA consultation, Council's Design Review Panel also evaluated this scheme against those principles.

Principle 1: Context

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

Response

The DRP expressed the view that the location of the site is highly suitable for this type of accommodation. It is agreed, given the scope of works, that this proposal is appropriate for the context and setting of the site.

Principle 2: Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

Response

The DRP stated that it is not concerned with the additional gross floor area, and the consequential breach of the FSR controls in Randwick LEP 2012 given that the building envelope does not alter. However the additional floor is not supported. See further comments at below in relation to Principle 7 (Amenity).

Principle 3: Built form

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Response

The DRP did not specifically address this principle, but did provide comments in relation to fine grain exterior design considerations, which are not considered to be determinative. However of concern is the proposal's failure to provide adequate internal amenity for the building, specifically the poor amenity for the proposed new unit. See further comment regarding Principle 7 below.

Principle 4: Density

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents). Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

Response

As noted the DRP held no concern with regard to the density of the proposal noting the location and scope of works. The proposal does however rely upon significant numerical breach of the Randwick LEP 2012 FSR control. See further comments at section 3 below.

Principle 5: Resource, energy and water efficiency

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction. Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

Response

The application is supported by the required Basix certificate.

Principle 6: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain. Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character. Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.

Response

The building has its primary frontage to Mount Street, and is setback only 1.5m from that boundary. Landscaping within that setback is limited. The private courtyard for the proposed new unit is located within that narrow setback, resulting the removal of some of that vegetation. The loss of this space for landscaping is a poor outcome for the site and the streetscape.

The DRP did note that there are opportunities to improve the poor landscaping within the generous nature strip to Mount Street. However, it is not appropriate to rely upon offsite

landscaping to supplement the loss of onsite landscaping which arises due poor design. See further comment regarding Principle 7 below.

Principle 7: Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

Response

The elements which contribute to the overall amenity of an apartment are considered below, relative to the 'best practice' design provisions in the "Residential Flat Design Code" (RFDC). That Code supports the 10 design quality principles by giving greater detail as to how those principles might be achieved.

- Privacy

The new unit is to be created by excavation within the subfloor space of the existing building to create the necessary internal ceiling heights, such that its floor level will be below ground level at the Mount Street boundary.

In recognition that privacy to the unit, and its courtyard, is inadequate, given their position immediately adjacent to Mount Street, the application proposes to increase the height of the existing boundary fence.

The inclusion of this higher fence however results in fundamental amenity impacts which are discussed below. A lowering of the height of this fence in an attempt to offset those impacts would result in inadequate privacy to the proposed unit.

- Lack of solar access to unit

The RFDC "best practice" guideline notes that 70% of apartments within a residential flat building should receive 3 hours solar access to living rooms at midwinter.

Although no details have been provided it is expected the proposed unit is unlikely to receive any solar access of note at midwinter for the following reasons:

- The living room is afforded only one aspect, to the east. Although reasonably generous glazing is provided to the bedroom and living room, the apartment is not expected to receive any solar access of worth due to shading by the new boundary fence to Mount Street which extends above the height of that glazing. The fencing is necessary to provide adequate privacy to unit and its associated courtyard, which are located immediately adjacent to the Mount Street boundary; and
- A new awning, positioned above the living room glazing, will further restrict solar midwinter solar access.

- Lack of solar access to courtyard

The courtyard adjacent to Mount Street is the only area of private open space provided to this unit. As consequence of needing to match the floor level of the new unit, excavation to a depth of about 1.5m is required within the narrow setback to Mount Street.

The RFDC also provides that private that 70% of apartments within a residential flat building should receive 3 hours solar access to private open space at midwinter.

No details have been provided, however it is expected the courtyard is unlikely to receive any solar access of note at midwinter for the reasons noted above.

- Poor private open space
The RFDC nominates that ground level units should have an area of private open space which is 25m², and a minimum dimension of 4m in one direction. It is accepted that such an outcome is not possible in this instance. Randwick DCP 2013 provides a less onerous requirement, being an area of 12m² and a minimum dimension of 4m, which is also not achieved.

Instead the proposed courtyard has an area 10.5m², and is generally only 1.2m deep. Such dimensions prevent the courtyard from providing any valuable function. The RFDC and Councils DCP both nominate a depth of 2m to create a useable space for items such as outdoor furniture.

- Poor cross ventilation
The DRP noted that additional openings should be provided at the rear (western) elevation to improve cross ventilation. The current design includes only one small window in the rear wall of the unit. The size and location of that window, its position relative to the remaining openings in the elevation to Mount Street, and the height of the fencing which is set almost immediately in front of those openings, is not considered sufficient to allow adequate cross ventilation.
- Storage
The RFDC nominates that a 1 bedroom unit should be provided with 6m³ of storage space (excluding kitchen cupboards and wardrobes) of which at least 50% should be located within the unit itself. No details of such storage have been provided.

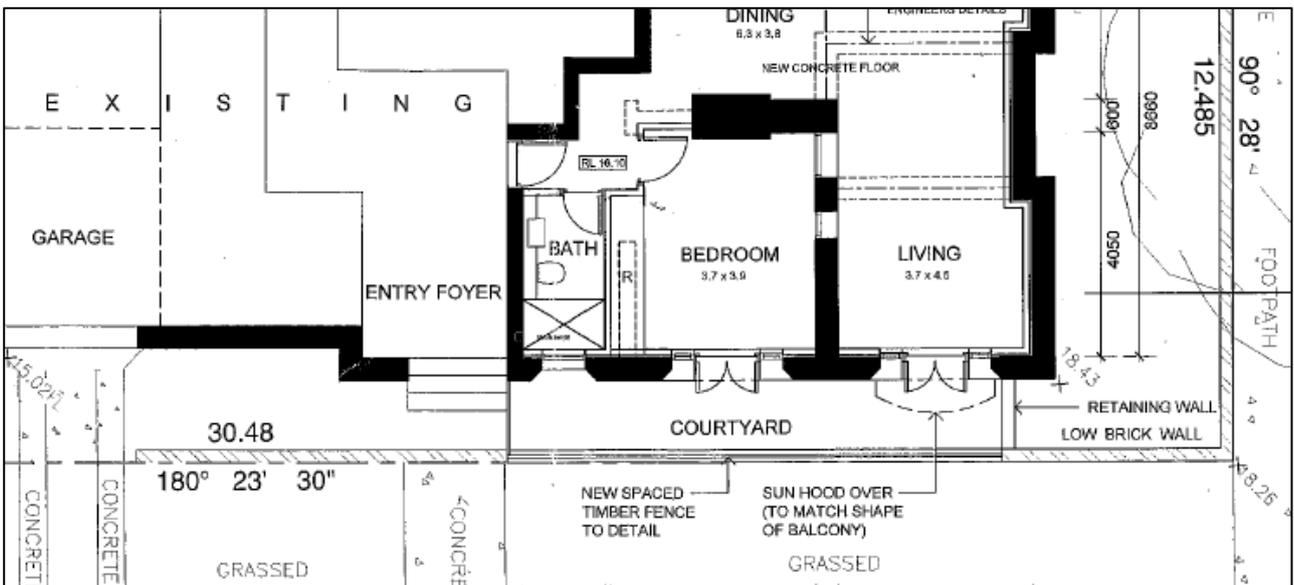


Figure 1: Floor plan showing location and size of courtyard



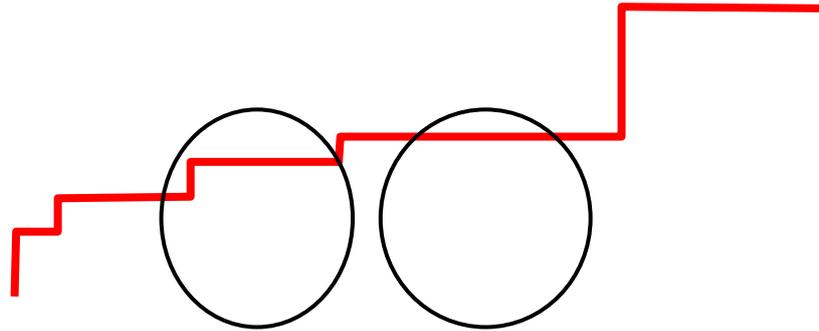


Figure 2: Height of new fence in red. Proposed bedroom and living room windows circled in black

Conclusion

The proposed unit will have a sub-optimal level of amenity for the following reasons:

- The unit itself will have no solar access of worth, limited cross ventilation, inadequate storage, greatly restricted daylight and a lack of any outlook; and
- The courtyard will not contribute to the amenity of the unit as it has a poor amenity of its own due to a lack of solar access, compromised usability due to its limited depth, a lack of any outlook or aspect, and a strong sense of enclosure due to the overbearing presence of the boundary fence which is between 2.2m-2.6m above much of the courtyard space.

Principle 8: Safety and security

Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

Response

No concerns arise.

Principle 9: Social dimensions and housing affordability

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community. New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.

Response

Any benefits arising from increasing the supply of housing in this location are not outweighed by the poor amenity of this unit, as demonstrated above.

Principle 10: Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the

existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

Response

The composition of building elements and materials is satisfactory.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The Policy seeks to ensure that new dwellings are designed to use less water and be responsible for fewer greenhouse gas emissions by setting energy and water reduction targets, which are based on the NSW average benchmark. The Policy also sets minimum performance levels for the thermal comfort of a dwelling.

The application as lodged was accompanied by BASIX Certificate No. A201044, which confirmed that required targets would be met.

3. Randwick LEP 2012

Part 2 - Permitted or prohibited development

Compliance with relevant provisions is addressed below:

- Clause 2.3 - Zone objectives and land use table

The site is zoned 'R3 Medium Residential' under Randwick LEP 2012. Within that zone a "residential flat building" is permissible with consent.

Clause 2.3(2) of the Plan requires consideration to be given to the zone objectives, which are:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents*
- *To recognize 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*
- *To encourage housing affordability.*
- *To enable small scale business uses in existing commercial buildings.*

The proposal is not considered to meet the first objective, as an apartment with poor amenity (as demonstrated above) does not contribute to the housing needs of the community.

- Clause 2.6 - subdivision requires consent

The proposed apartment is located with Lot 1 of Strata Plan 63221. That Lot is a "utility lot" under section 39 of the Strata Schemes (Freehold Development Act) 1973. The current Strata scheme would require amendment to reflect the creation of the new lot from the current common property. If the application is to be approved any consent should include a condition requiring all relevant approvals for alterations to the Strata Plan must be in place before an Occupation Certificate is issued.

- Clause 2.7 - Demolition

The proposal requires minor demolition works. If the application is to be approved any consent will include conditions to ensure compliance with relevant Australian Standards.

Part 4 - Principal development standards

Compliance with relevant principle development standards within the RLEP 2012 is addressed below:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	0.9:1	0.98:1	No - the application relies upon clause 4.6 of the LEP - see comments below.
Height of Building (Maximum)	12m	11.44m-12m	Yes

Parts 5 and 6 - Miscellaneous and additional local provisions

Consideration of relevant provisions within Part 5 of the RLEP 2012 is addressed below:

- Clause 5.10 - Heritage

Several local heritage items are located in the vicinity of the site. The distances separating those items from this site, and the nature of intervening development is such that this proposal will not compromise the heritage values, setting or context of those items.

- Clause 6.1 - Acid sulfate soils (ASS)

The site is categorised as clause 5 ASS however the limited scope of site is not a trigger for development consent, and accordingly a specific management plan is not required.

- Clause 6.2 - Earthworks

Council's Development Engineer has not identified any concerns to indicate the proposal is contrary to any of the matters for consideration in this clause.

- Clause 6.10 - Essential Services

All required utility services already extend to the site and will be augmented as necessary to meet provider requirements.

Assessment of variation to floor space ratio control

Assessment of clause 4.6 variation – Exception to Development Standards

Clause 4.6 of the Randwick LEP 2012 details exceptions to development standards and includes objectives which seek to:

- Provide an appropriate degree of flexibility in applying certain development standards to particular development.
- Achieve better outcomes for and from development by allowing flexibility in particular circumstances

Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) That there are sufficient environmental planning grounds to justify contravening the development standard.

Development consent must not be granted for development that contravenes a development standard unless:

- (a) The consent authority is satisfied that:
 - (i) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) The concurrence of the Director General has been obtained

In deciding whether to grant concurrence the Director General must consider:

- (a) Whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) The public benefit of maintaining the development standard, and
- (c) Any other matter required to be taken into consideration by the Director General before granting concurrence.

The proposal contravenes the Floor Space Ratio development standard within clause 4.4 of RLEP 2012. The applicant has submitted a written request that seeks to justify the contravention of the standard pursuant to Clause 4.6 of the LEP.

Variation sought by the applicant

RLEP 2012 prescribes a 0.9:1 Floor Space Ratio control for the site. The development proposes a FSR of 0.98:1.

Assessment of the applicant's written justifications for the contravention of the development standard

Pursuant to clause 4.6(3) of RLEP 2012 development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of a development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Further, the consent authority must be satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

In relation to the matters required to be demonstrated by subclause (3) there are various ways that may be invoked to establish that compliance with a development standard is unreasonable or unnecessary, as discussed by Chief Justice Preston of the NSW Land and Environment Court in the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827. Although the *Wehbe* case was decided in relation to State Environmental Planning Policy No 1—Development Standards (“SEPP 1”) and not clause 4.6 of RLEP 2012 it remains of some assistance in relation to identifying the ways in which an applicant may demonstrate that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case.

Has the applicant’s written request adequately addressed that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?

In the *Wehbe* case Justice Preston said the most commonly invoked way to establish that compliance with a development standard is unreasonable or unnecessary is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard. The objectives of the Floor Space Ratio standard are set out in clause 4.4(1) of RLEP 2012 as follows:

- (a) to ensure that the size and scale of development is compatible with the desired future character of the locality,
- (b) to ensure that buildings are well articulated and respond to environmental and energy needs,
- (c) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,
- (d) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

In summary, the applicant contends these objectives are satisfied for the following reasons:

- No extra height is proposed, no view loss from surrounding neither neighbours, nor amenity issues with neighbours.
- The size and scale of the building is compatible with its neighbours and streetscape.
- The existing building is already well articulated and patterned and the proposal receives adequate solar access.
- The scale and bulk of the existing building will remain unchanged.
- The proposal’s size and scale is compatible with the desired future character of the locality.

Assessment: It is agreed that the additional floorspace would not result in any outcome contrary to those objectives.

1. Consistency with the objectives of the R3 Medium Density Residential Zone objectives

The relevant zone objectives are:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium 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.
- To encourage housing affordability.
- To enable small-scale business uses in existing commercial buildings.

Assessment: The proposal is not considered to meet the first objective, as an apartment with poor amenity does not contribute to the housing needs of the community.

2. Consistency with State and Regional planning policies

Assessment: The development is not consistent with SEPP 65.

3. The variation allows for a better planning outcome

Assessment: A variation to the FSR control for the sole purpose of creating an apartment with a poor level of amenity is not a better planning outcome as compared to maintaining that standard.

4. There are sufficient environmental grounds to permit the variation

Assessment: The proposal does not trigger any adverse outcomes for the natural or built environment.

5. The variation is in the public interest

Assessment: It is not in the public interest to allow for a variation to the FSR control for the purposes of creating an apartment which has a very poor level of amenity.

6. Has the applicant's written request adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard?

No. The submission only considers matters relating to built form and possible associated external impacts. No regard has been given to the quality and amenity of the apartment created by the additional floor space.

7. Does the Council have delegation to exercise the concurrence function of the Director-General of the Department of Planning and Infrastructure for development that contravenes a development standard? If so:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard.*

In response to the above it is noted:

- Pursuant to the Notification of assumed concurrence of the Director-General under clause 4.6(4) (and the former clause 24(4)) of the Standard Instrument contained in Planning Circular PS 08-003 (dated 9 May 2008) the concurrence of the Director-General of the Department of Planning and Infrastructure under clause 4.6(4)(b) of RLEP 2012 may be assumed to the granting of development consent to the development that contravenes the development standard for the FSR control in clause 4.4 of RLEP 2012;
- The proposed development and variation from the development standard does not raise any matters of significance for State or regional environmental planning; however
- There is a public benefit in maintaining the development standard in this instance.

Conclusion

The request to vary the floor space ratio control is not well founded as the applicant has not demonstrated the proposal fully meets the objectives for the R3 zone, as discussed above. That conclusion is supported by a 'merit' assessment relative to an evaluation against SEPP 65 and the RFDC.

Accordingly it is neither reasonable nor necessary to support a variation to the FSR control in this instance.

4. Randwick Comprehensive DCP 2013

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 directly related to the proposal have been deliberately omitted.)

DCP Clause	Control	Proposal	Compliance
B7	Transport, Traffic, Parking and Access		
3.	Parking & Service Delivery Requirements		
	Car parking requirements: 1 space per 2 studios 1 space per 1-bedroom unit (over 40m ²) 1.2 spaces per 2-bedroom unit 1.5 spaces per 3- or more bedroom unit 1 visitor space per 4 dwellings	No additional car parking spaces are proposed.	No - but acceptable subject to conditions per Council's Development Engineer. See comments at section 6.
C2	Medium Density Residential		
2.2	Landscaped open space and deep soil area		
2.2.1	Landscaped open space		
	A minimum of 50% of the site area (being 190.5m ²) is to be landscaped open space.	193m ² of the site has existing landscaping	Yes
2.2.2	Deep soil area		
	(i) A minimum of 25% of the site area (95m ²) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.	35.4% (135m ²) already exists on site as deep soil	Yes
2.3	Private and communal open space		
2.3.1	Private open space		
	Private open space is to be: (i) Directly accessible from the living area of the dwelling. (ii) Open to a northerly aspect where possible so as to maximise solar access. (iii) Be designed to provide adequate privacy for residents and where	Yes - courtyard is located adjacent to living room. The courtyard will have poor solar access as discussed above at section 2. The courtyard is located adjacent to	Yes No Yes

DCP Clause	Control	Proposal	Compliance
	possible can also contribute to passive surveillance of common areas.	the main pedestrian entry.	
	For residential flat buildings: (vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof garden, accessible from with the dwelling. (vii) Private open space for apartments has a minimum area of 8m ² and a minimum dimension of 2m.	Yes - courtyard is located adjacent to living room. The courtyard is 10.5m ² but only of 1.2m. See comment at section 2 above	Yes No
3	Building Envelope		
3.1	Floor space ratio		
	RLEP 2012: 0.9:1	0.98:1	No - see section 2 above.
3.2	Building height		
	RLEP 2012: 12m	11.44-12m The existing height would not alter as a result of the proposed development.	Yes
3.3	Building depth		
	For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m. Any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings / units.	The existing building depth is 9.5m. This would not alter as a result of the proposed development.	Yes
3.4	Setbacks		
3.4.1	Front setback iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.	The courtyard is located within the setback to Mount Street and will result in a loss of common landscaped area	No
4	Building Design		
4.1	Building façade		
	(i) Buildings must be designed to address all street and laneway frontages. (ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout. (iii) Articulate facades to reflect the function of the building, present a	The only proposed alterations to the existing façade would be the inclusion of 2 new timber framed windows at the eastern elevation, one of which would include the provision of a	Yes

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DCP Clause	Control	Proposal	Compliance
	<p>human scale, and contribute to the proportions and visual character of the street.</p> <p>(iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes.</p> <p>(vi) Conceal building services and pipes within the balcony slabs.</p>	<p>sunhood, which would match the shape of the above balcony. A new timber framed window would also be provided at the western elevation.</p>	
4.4	External wall height and ceiling height		
	<p>(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.</p>	<p>The ceiling height of the proposed development is 2.4m</p>	No
4.7	Apartment layout		
	<p>(i) Maximise opportunities for natural lighting and ventilation through identified design measures.</p>	<p>Daylight, direct solar access and natural ventilation are inadequate, as discussed above at section 2.</p>	No
	<p>(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.</p>	<p>The design is satisfactory.</p>	Yes
	<p>(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development.</p>		Yes
	<p>(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.</p>	<p>Achieved</p>	Yes
4.8	Balconies		
	<p>(i) Provide a primary balcony and/or private courtyard for all apartments with a minimum area of 8m² and a minimum dimension of 2m and consider secondary balconies or terraces in larger apartments.</p>	<p>N/A</p>	N/A
	<p>(ii) Provide a primary terrace for all ground floor apartments with a minimum depth of 4m and minimum area of 12m². All ground floor apartments are to have direct access to a terrace.</p>	<p>The courtyard has an area of 10.5m and a depth of 1.2m</p>	No
4.9	Colours, materials and finishes		
	<p>(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans.</p> <p>(vii) Sandstone blocks in existing buildings or fences on the site must</p>	<p>Colours, materials and finishes would be in keeping with the existing development.</p>	Yes

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DCP Clause	Control	Proposal	Compliance
	be recycled and re-used.		
4.12	Earthworks Excavation and backfilling		
	(i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a building within this extent of site modification.	Site works within the building footprint are satisfactory.	Yes
	(ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the height or depth of earthworks at any point on the site.	Site works to create the courtyard are up to 1.5m. No concerns arise from that, however the resultant amenity for the courtyard is not acceptable.	Yes
	Retaining walls (iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries.	The retaining wall to create the courtyard is located on the boundary to with Mount Street.	No
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access for proposed development		
	(ii) Living areas and private open spaces for at least 70% of dwellings within a residential flat building must provide direct sunlight for at least 3 hours between 8am and 4pm on 21 June.	Not satisfactory - refer to comments at section 2.	No
5.2	Natural ventilation and energy efficiency		
	(i) Provide daylight to internalised areas within each dwelling and any poorly lit habitable rooms via suitable design measures.	Not satisfactory - refer to comments at section 2.	No
	(iii) All habitable rooms must incorporate windows opening to outdoor areas.	Achieved	Yes
	(iv) All new residential units must be designed to provide natural ventilation to all habitable rooms.	Achieved. However concerns with cross ventilation. Refer to comments at section 2.	Yes
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.	Achieved.	Yes
5.3	Visual privacy		
	(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed	Achieved.	Yes

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DCP Clause	Control	Proposal	Compliance
	<p>doors in adjoining dwellings.</p> <p>(ii) Orient balconies to front and rear boundaries or courtyards as much as possible.</p> <p>(iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance.</p> <p>(iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy.</p>	<p>Mount Street acts as front boundary given the orientation of the existing building.</p> <p>N/A</p> <p>Achieved. However, this results in negative outcomes for solar access, daylight, outlook from living areas and cross ventilation. Refer to comments at section 2 above to solar access</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p>
5.4	Acoustic privacy		
	(i) Design the building and layout to minimise transmission of noise between buildings and dwellings.	The floor plan arrangement is satisfactory.	Yes
7	Fencing and Ancillary Development		
7.1	Fencing		
	<p>(i) Fences are constructed with durable materials that are suitable for their purpose and can properly withstand wear and tear and natural weathering.</p> <p>(ii) Sandstone fencing must not be rendered and painted.</p> <p>(iii) The following materials must not be used in fences:</p> <ul style="list-style-type: none"> - Steel post and chain wire - Barbed wire or other dangerous materials <p>(iii) Expansive surfaces of blank rendered masonry to street frontages must be avoided.</p>	Achieved.	Yes
7.6	Storage		
	<p>(iii) In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <ul style="list-style-type: none"> (a) Studio apartments – 6m³ (b) 1-bedroom apartments – 6m³ (c) 2-bedroom apartments – 8m³ (d) 3 plus bedroom apartments – 10m³ 	No details provided. See comments at section 2 above.	No
7.7	Laundry facilities		

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DCP Clause	Control	Proposal	Compliance
	(ii) Provide internal laundry for each dwelling unit.	Achieved	Yes

5. 79C Matters for consideration

Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	The relevant provisions of the environmental planning instruments have been satisfied.
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil
Section 79C(1)(a)(iii) – Provisions of any development control plan	Assessment has demonstrated multiple departures from applicable provisions within the DCP as noted above.
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	Not satisfactory. Refer to discussion at section 1 above.
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.
Section 79C(1)(c) – The suitability of the site for the development	The site is not suitable for this particular proposal as the additional apartment is not able to be accommodated in a manner that results in a satisfactory level of amenity for future occupants.
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 is not in the public interest for the reasons set out at section 2 above.

6. Referral Comments

Development Engineer

Car Parking

CP23/15

"The proposed 1 bedroom unit will generate an additional parking demand of 1 space. This has not been provided for within the site and so the proposed development will be relying on the availability of on-street parking in order to accommodate this demand.

The non-provision of off street parking is generally not supported by Development Engineering. Development Engineering has included a condition which advises the new unit may not qualify for a residential parking permit should Council implement a residential parking scheme for this area."

Service Authority

"As the number of habitable dwellings is increasing the applicant will be required with any future consent for the subject proposal to obtain a Section 73 Compliance Certificate under the Sydney Water Act 1994. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.

The Section 73 Compliance Certificate will be required to be submitted to the Principal Certifying Authority prior to occupation of the development."

Groundwater

"Given the unit is below ground level the applicant is advised that any future consent will likely include conditions that require the walls of the unit to be adequately water proofed."

Strata Plan

"The proposed additional unit will likely require amendments to the existing strata scheme operating on the site under SP 63221. It is noted that no application has been included to amend the subject Strata Plan."

Senior Building Surveyor

"Proposed Development:

It is proposed to create a 1 bedroom sole occupancy unit in the subfloor area at the front of the existing 4 level building that currently contains 7 sole occupancy units with a garage at lower ground floor level.

Comments:

Premises have a current fire safety statement. No objection seen. Suitable conditions will be recommended.

7. REASONS FOR REFUSAL

- (1) The proposal is not satisfactory for the purposes of clause 50 of the Environmental Planning and Assessment Regulation as the application is not accompanied by a Design Verification Statement from a qualified designer.
- (2) The application is not satisfactory for the purposes of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as proposed dwelling is not satisfactory for the purposes of clause 30(2)(b) and (c) of State Environmental Planning Policy 65 (Design Quality of Residential Flat Development).
- (3) The proposal is not satisfactory for the purposes of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the submission pursuant to clause 4.6 of Randwick Local Environmental Plan 2012 fails to demonstrate the variation of the floor space ratio control is able to meet all of the zone objectives for the R3 Medium Density Residential Zone.

- (4) The application is not satisfactory for the purposes of Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979 as it is not in the public interest to vary the floor space ratio control in Randwick Local Environmental Plan 2012 for the purpose of creating a dwelling which has sub-optimal amenity for future residents when evaluated against the Residential Flat Design Code and Randwick Comprehensive Development Control Plan 2013.
- (5) The proposal does not comply with relevant objectives and controls of the Randwick Comprehensive Development Control Plan 2013 under:
- Clause 3 of Part B7,
- and Part C2
- Clause 2.3 private open space,
 - Clause 3.4 front setback,
 - Clause 4.4 ceiling height,
 - Clause 4.7 Apartment layout,
 - Clause 4.8 balconies,
 - Clause 4.12 retaining walls,
 - Clause 5.1 solar access,
 - Clause 5.2 natural ventilation, and
 - Clause 7.6 storage

Development Application Compliance Report



Folder /DA No:	DA/366/2015
PROPERTY:	135 Avoca Street, RANDWICK NSW 2031
Proposal:	Fitout and Use of the premises as a day spa and Thai massage shop.
Recommendation:	Approval

Relevant Environment Planning Instruments:

1. Randwick LEP 2012

The subject site is zoned B2 Local Centre under the Randwick LEP 2012. The proposal development is classified as a commercial premise and is permissible in the zone.

The proposal will be consistent with the zoning objectives in that:

- The development will provide a business that serves the needs of people who live in, work in and visit the local area and which will encourage employment opportunities within the local area;
- The subject site is well served by public transport;
- It is considered that the development will integrate with, and supports the primary business function of the zone;
- The proposal will not impose any significant impacts on heritage items which are located within the town centre; and
- Suitable conditions are recommended to ensure that the development will not impose any significant impacts on the amenity of residents in the zone and in adjoining and nearby residential zones; as well as to facilitate a safe public domain.

The proposal involves the use of an existing building and will not increase the floor space ratio or building height of the subject building

The following Clauses of RLEP 2012 apply to the proposal:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	2:1	No Change	N/A
Height of Building (Maximum)	12m	No Change	N/A

2. Randwick Comprehensive DCP

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.

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Randwick Junction

The subject application does not involve any significant construction works and relates mainly to the change of use of the premises and the replacement of existing business identification signage. Parking is provided at the rear of the premises and the site is serviced by adequate on-street parking and public transport within the immediate vicinity. Consequently, the development is considered to satisfy the stated aims and objectives of the DCP; and it is considered that the proposal will not have any significant impacts on neighbouring dwellings or the locality as a whole.

Outdoor Advertising:

The applicant has indicated that existing business identification signage will be replaced with new graphics to reflect the new business name.

Signage will be installed to an existing under awning sign as well as to the northern shop front window. The scale and type of the business identification signage alerts potential clients to the exact nature of the services to be provided and is displayed at the entrance to the premises. The proposed signage is not dissimilar to that of other businesses along Avoca Street and located within the Randwick Junction Town Centre.

Parking

The proposed change of use of the subject site from a commercial shop to a massage shop will not change/alter the parking requirements on site. The site still provides parking at the rear and as previously stated is within close proximity to several high-use bus routes. The proposal is considered acceptable with regards to parking and meets the relevant objectives in the RDCP 2013.

3. 79C Matters for consideration

Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	<p>Randwick Local Environmental Plan 1998 (Consolidation).</p> <p>The site is zoned Residential B2 Local Centre under the Randwick Local Environmental Plan 2012 and the proposal is permissible with Council’s consent.</p> <p>The proposal is consistent with the specific objectives of the zone in that the development will provide a business that serves the needs of people who live in, work in and visit the local area and which will encourage employment opportunities within the local area.</p>
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
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.
Section 79C(1)(a)(iiia) – Provisions of any	Not applicable.

Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
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 have been addressed in this report.</p> <p>The proposed development is consistent with the dominant residential character in the locality. The proposal will not 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	There were no submissions made during the notification period.
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.

4. Referral Comments

4.1 Heritage Planner

There are no heritage objections to the proposed shopfront signage comprising adhesive vinyl film to the face of the northern glazed panel, which is generally consistent with other shopfront signage within the Randwick Junction town centre.

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>
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First Floor Plan	Peg & Hoof Hospitality & Design	Undated
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2. No approval is granted for any alterations to the façade of the premises (other than signage changes).
3. Details of signage to the shop front window and existing under awning sign must be submitted to Council’s Manager of Development Assessment for approval prior to the commencement of the use.

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.

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Sydney Water

4. 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 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.

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.

Building Code of Australia & Fire Safety

5. 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 are to be provided in the construction certificate.

6. In existing buildings, the following works are to be carried out to ensure minimum levels of fire safety (as applicable) to the satisfaction of the Certifying Authority:
- Any new or replacement ceilings walls and floor linings and doorways are required to satisfy the relevant requirements of the Building Code of Australia.
 - Any residential parts of the building must be provided with a smoke detection and alarm system, in accordance with the relevant provisions of the Building Code of Australia.
 - Any residential part/s of the building are to be suitably fire-separated from the commercial area encompassed in this development application.

Details of the abovementioned items and other building and fire safety works are to be included in the construction certificate.

7. 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.

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 Regulatory Requirements

8. 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) 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
 - d) at least two days notice must be given to the Council, in writing, prior to commencing any works.

Public Utilities

CP24/15

9. 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.

Building Inspections

10. The 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.

Permitted Working Hours

11. 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"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Internal work only within a commercial or industrial development, located in a commercial or industrial zone, which is not audible within any residential dwelling or commercial or industrial premises	<ul style="list-style-type: none"> • Monday to Saturday - No time limits (subject to column 1) • Sunday & public holidays - No work permitted

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.

Construction Site Management, Public Health & Safety

12. Public health, safety and convenience must be maintained at all times during demolition and building works and the following requirements must be complied with at all times (as applicable):
- a) A sign must be provided and maintained in a prominent position throughout 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".
- b) The roadway, footpath and nature strip must be maintained in a good, safe condition and free from any obstructions, trip hazards, materials, soils or debris at all times. Any damage caused to the road, footway or nature strip must be repaired immediately, to the satisfaction of Council.
- c) A Road / Asset Opening Permit must be obtained from Council prior to carrying out any 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.
- d) Building materials, sand, soil, waste materials, construction equipment or other materials or articles must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.
- e) Bulk bins, waste containers or 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 or other articles in a public place can be made to Council's Health, Building & Regulatory Services department.
- f) During construction, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom, to the satisfaction of Council.
- g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to protect the public. Temporary site fences are to 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.

If it is proposed to locate any site fencing, hoardings or items upon any part of the footpath, nature strip or any public place, a Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services department beforehand. Details and plans are to be submitted with the application, together with payment of the weekly charge in accordance with Council's adopted Pricing Policy.

- h) 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.

The requirements and practices contained in the *Protection of the Environment Operations Act 1997* and relevant DECC Construction Noise and Vibration Guidelines are to be satisfied and a Construction Noise and Vibration Management Plan is to be developed and implemented throughout the works to the satisfaction of Council.

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'.

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Notes: An Occupation Certificate must be obtained from the PCA prior to occupation and use of the premises.

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

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

Council's Infrastructure, Vehicular Crossings, street verge

14. 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.
15. 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.

Fire Safety Certificate Requirements

16. 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 of the *Fire Safety Certificate* and *Fire Safety Schedule* must also be forwarded to Fire & Rescue NSW.

Waste Management

CP24/15

17. Adequate provisions are to be made within the premises for the storage, collection and disposal of trade/commercial waste and recyclable materials, to the satisfaction of Council.
18. Any trade/commercial waste materials must not be disposed in or through 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. Details of the proposed waste collection and disposal service are to be submitted to Council prior to commencing operation of the business.

Food Safety

19. A certificate or statement must be obtained from a suitably qualified and experienced Food Safety Consultant or Council's Environmental Health Officer, to confirm that the design and construction of the *food business* satisfies the relevant requirements of the *Food Act 2003*, Food Standards Code and AS 4674 (2004) - Design, construction and fit-out of food premises, prior to issuing 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.

Noise Emissions

20. The operation of the premises and all plant and equipment must not give rise to an environmental health or public nuisance or, result in an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the use and operation of the premises (including all 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/Environmental Protection Authority Noise Control Guidelines.

21. The owner of the subject site must advise Council in writing of any change in the tenant that is operating the massage shop and advise the new tenant that they must provide Council with the qualifications of all staff involved in providing massage services prior to commencing the new operation.
22. The premises must not to be used for the purposes of a brothel and in this regard, no sexual services of any kind are to be offered in association with the massage use.
23. The maximum number of employees operating from the subject premises is restricted to 3, and their relevant massage qualifications are to be submitted to and approved by Council's Manager Development Assessment prior to the commencement of the use or when there are new employees.
24. The premise is not to be used for any purpose other than that approved in this development consent.
25. The hours of the operation of the business are restricted to:

Monday to Sunday from: 10.00am – 9:00pm.

26. The proposed signage must not have/use:
- Flashing lights;
 - Electronically changeable messages;
 - Animated display, moving parts or simulated movement;
 - Complex displays that hold a driver's attention beyond 'glance appreciation';
 - Displays resembling traffic signs or signals; and
 - A method and level of illumination that distracts or dazzles.

Plant & Equipment

27. The operation of all plant and equipment upon 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.

Fire Safety Statements

28. 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.

29. No food preparation (cooking, cutting etc) shall be undertaken within the food premises unless written consent is given by Randwick City Council. The Tea Bar section is to be used for the sale of drinks only.
30. **Prior to commencement of food business operations**, the premises must be registered with Council's Health, Building & Regulatory Services Department and the NSW Food Authority in accordance with the Food Safety Standards.
31. 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, sanitizing 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.

32. The 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.
33. A numerically scaled indicating thermometer or recording thermometer, accurate to the nearest degree Celsius being provided to refrigerators, cool rooms, other cooling appliances and bain-maries or other heated food storage/display appliances. The thermometer is to be located so as to be read easily from the outside of the appliance.

A digital probe type thermometer must also be readily available to check the temperature of food items.

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 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 legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of `on-the-spot` penalty infringements or service of a notice and order by Council.
- A2 The assessment of this development application does not include an assessment of the proposed building work under the Building Code of Australia (BCA) and Disability (Access to Premises – Buildings) Standards 2010. All new building work must comply with the BCA and relevant Australian Standards and details of compliance must be provided in the Construction Certificate application.
- A3 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.

CP24/15

Development Application Compliance Report



Folder /DA No:	DA/121/2015
PROPERTY:	14 Bruce Street, KINGSFORD NSW 2032
Proposal:	Demolition of all structures on site and construction of a new part 2/part3 storey boarding house in two buildings comprising 20 rooms and 4 car spaces
Recommendation:	Refusal

Relevant Environment Planning Instruments:

1. SEPPs

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development.

See SEPP 65 – Design Quality of Residential Flat Development section of the Executive Summary.

State Environmental Planning Policy (Affordable Rental Housing) 2009

Division 3: Boarding houses

The subject application is made pursuant to the SEPP (Affordable Rental Housing) 2009 and requires assessment under Clause 29 – *Standards that cannot be used to refuse consent* and Clause 30 *Standards for boarding houses*. The following tables outline the assessment:

Assessment of Clause 29 – Standards that cannot be used to refuse consent	
Standard	Assessment
<p>(1) Floor Space</p> <p>If the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register, the density and scale of the buildings when expressed as a floor space ratio are not more than the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus: 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less.</p> <p>Accordingly, the maximum permissible FSR for the subject site (RLEP FSR development standard for R3 Zones plus SEPP bonus)</p> <p>0.75:1 + 0.5:1 = 1.25:1</p>	<p>The permitted FSR under the RLEP 2102 is 0.75:1. Residential Flat Buildings are permitted on the land and the applicant is seeking to use the bonus allowance of 0.5:1 which would allow for a maximum FSR of 1.25:1.</p> <p>The proposal incorporates a FSR of 0.9:1 according to calculations submitted with the application. Whilst certain minor areas have been excluded from calculations it is evident that the proposal is well within the maximum allowable.</p> <p>Complies.</p>
<p>(2) Building height</p> <p>Building height if all proposed buildings</p>	<p>9.5m maximum height.</p>

CP25/15

Assessment of Clause 29 – Standards that cannot be used to refuse consent	
Standard	Assessment
comply with the maximum building height under another environmental planning instrument for any building on the land (9.5m building height in this instance).	Complies.
<p>(3) Landscaped area</p> <p>Landscape treatment if the front setback area is compatible with the streetscape in which the building is located.</p>	See SEPP (Affordable Rental Housing) 2009 section of the Executive Summary.
<p>(4) Solar access</p> <p>Where the development provides for one (1) or more communal living rooms, if at least one (1) of those rooms receives a minimum of three (3) hours direct sunlight between 9am and 3pm in mid-winter.</p>	See SEPP (Affordable Rental Housing) 2009 section of the Executive Summary.
<p>(5) Private open space</p> <p>If at least the following private open space areas are provided (other than the front setback area):</p> <p>(i) one (1) area of at least 20 square metres with a minimum dimension of three (3) metres is provided for the use of the lodgers;</p> <p>(ii) if accommodation is provided on site for a boarding house manager - one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation.</p>	<p>Compliant area is available between the pavilions. See also SEPP (Affordable Rental Housing) 2009 section of the Executive Summary.</p> <p>Approximately 9m² available. Complies.</p>
<p>(6) Parking</p> <p>If: (i) in the case of development in an accessible area—at least 0.2 parking spaces are provided for each boarding room.</p>	See Traffic and Parking section in the Executive Summary.
<p>(7) Accommodation size</p> <p>If each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</p> <p>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16 square metres in any other case.</p>	Whilst stated room sizes are indicated on the submitted plans the scale of the plans do not allow for verification. See also SEPP (Affordable Rental Housing) 2009 section of the Executive Summary.
A boarding house may have private kitchen or bathroom facilities in each boarding room but	The proposed rooms have bathroom and bench top kitchen areas with no cooking

Assessment of Clause 29 – Standards that cannot be used to refuse consent	
Standard	Assessment
is not required to have those facilities in any boarding room.	facilities.

Assessment of Clause 30 Standards for boarding houses	
Standard	Assessment
(a) If a boarding house has 5 or more boarding rooms, at least one (1) communal living room will be provided.	The proposal provides for a communal room. Complies.
(b) No boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres.	The application does not propose any rooms of more than 25sqm (excluding any area used for the purposes of private kitchen or bathroom facilities). Complies
(c) No boarding room will be occupied by more than 2 adult lodgers.	Boarding rooms are identified as being for single and double lodging purposes only. Complies.
(d) Adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger.	The proposal provides for a communal kitchen. Compliance with the BCA would be a requirement of any consent granted.
(e) If the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager.	The proposal indicates a capacity of 35 persons including provision for an onsite manager. Complies.
(f) If the boarding house is on land within a zone where residential flat buildings are permissible, no new car parking for lodgers will be provided on the site.	Repealed.
(g) If the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use.	The land is zoned R3 Medium Density Residential and does not promote commercial uses.
(h) At least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	See SEPP (Affordable Rental Housing) 2009 section of the Executive Summary.

Assessment of Clause 30A- Character of the local area
Character of the local area See Character of Local Area in SEPP (Affordable Rental Housing) 2009 section of the Executive Summary.

SEPP Building Sustainability Index (BASIX) 2004

See SEPP Building Sustainability Index (BASIX) 2004 section of the Executive Summary.

A BASIX certificate is required a BASIX affected building defined under the EP & A Regulations as:

BASIX affected building means any building that contains one or more dwellings, but does not include a hotel or motel.

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For boarding houses which contain self-contained boarding rooms (with private kitchen and bathroom facilities). Council’s consistent interpretation has been that a boarding room of this nature constitutes a “dwelling” as defined within the Standard Planning Instrument including the RLEP as:

dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

A BASIX Certificate has not been submitted, therefore having regard inclusive of the comments in the SEPP 65 section of the Executive Summary, it is difficult to conclude that the proposal in its current form offers an optimal amenity to residents in terms of energy efficiency and thermal comfort.

2. Randwick Local Environmental Plan 2012

2.1 Randwick LEP 2012

The subject site is zoned R3 Medium Density Residential under Randwick LEP 2012. The proposal development is classified as a boarding house and is permissible in the zone. The zoning objectives are addressed as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium 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.***
- *To encourage housing affordability.*
- *To enable small-scale business uses in existing commercial buildings.*

Whilst most of the objectives are satisfied by way of the proposed development, the proposal in its current form does not satisfy those objectives highlighted above. These aspects are addressed in the Zone Objectives section of the Executive Summary.

3. Randwick Comprehensive DCP

3.1 C4 Table: Boarding Houses

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
1	Building Design		
	Boarding rooms <i>Orientate to receive the maximum amount of sunlight;</i>	The proposal does not provide for optimum massing of building bulk, internal bulk or	See DCP Boarding Houses section of Executive

DCP Clause	Controls	Proposal	Compliance
	<p><i>Provide a balcony, terrace or window opening to outdoor areas for natural light and ventilation; and</i></p> <p><i>Where provided, private open space in the form of a balcony or terrace must have a minimum useable area of 4 square metres.</i></p>	<p>sunlight access to communal open space areas.</p> <p>Balconies to rooms 9 – 12, 14 – 20 are less than 4m² and less than functional.</p>	<p>Summary.</p>
	<p>Outdoor Communal Open Space <i>Provide for all boarding houses, with a minimum total area of 20 square metres and a minimum dimension of 3 metres;</i></p> <p><i>Provide at ground or podium level in the form of a courtyard or terrace area, accessible to all residents; Locate and orientate to maximise solar access;</i></p> <p><i>Incorporate both hard and soft landscaped areas;</i></p> <p><i>Provide shared facilities such as fixed outdoor seating benches, barbecues and the like to allow social interaction; and</i></p> <p><i>Provide partial cover for weather protection, such as pergola, canopy or the like, where it does not cause unreasonable overshadowing on adjoining properties.</i></p>	<p>The proposal provides an area of ground floor open space measuring approximately 40m².</p>	<p>Yes. See also DCP Boarding Houses section of Executive Summary.</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>See also DCP Boarding Houses section of Executive Summary.</p>
	<p>Indoor Communal Facilities <i>Provide with a minimum dimension of 3 metres and a minimum total area of 20 square metres or 1.2 square metres/resident, whichever is greater; and</i></p> <p><i>Orientate to maximise solar access and have a northerly aspect where possible.</i></p>	<p>A communal room of 22.32m² is provided for residents. The requirement of the SEPP which overrides the DCP indicates a requirement for a communal room for boarding house with more than 5 rooms.</p> <p>The proposal satisfies this requirement.</p>	<p>Yes</p> <p>See also DCP Boarding Houses section of Executive Summary.</p>
	<p>Communal Kitchen Bathroom and Laundry Facilities <i>For all boarding houses, provide communal kitchen, bathroom and laundry facilities where they are easily accessible for all residents, unless these facilities are provided within each boarding room;</i></p>	<p>All boarding rooms have bench top and bathroom facilities. A communal laundry and kitchen area are</p>	<p>Yes</p>

DCP Clause	Controls	Proposal	Compliance
	<p><i>For development of over 12 boarding rooms without en suite bathrooms, provide separate bathroom facilities for male and female residents; Locate and design any communal laundry room to minimise noise impact on boarding rooms and neighbouring properties; and</i></p> <p><i>Where possible, locate clothes lines to maximise solar access while not compromising the street amenity or usability of communal open space.</i></p>	<p>provided at ground floor level and is positioned so as not to impact on the amenity of neighbouring properties.</p> <p>Drying areas adjacent to the laundry will have a small amount of direct solar access during the winter solstice.</p>	<p>Yes</p>
	<p>Safety and Crime Prevention</p> <p><i>Locate building entry points and internal entries to living areas where they are clearly visible from common spaces;</i></p> <p><i>Locate a habitable living area (such as lounge room, kitchen, dining or bedroom) to allow general observation of the street and communal open space;</i></p> <p><i>Separate ground level private open space from public and common areas by measures such as open fencing or low level plants; and</i></p> <p><i>Select trees and low-lying shrubs that do not interfere with sight lines nor provide opportunities for concealment or entrapment.</i></p>	<p>Design of the boarding house component incorporates reasonable measures in accordance with CPTED principles.</p>	<p>Yes</p>
	<p>Visual and Acoustic Amenity and Privacy</p> <p><i>Indicative locations of facilities and appliances for bathrooms, kitchens and laundries must be clearly shown on the DA plans/drawings;</i></p> <p><i>Locate kitchen, dining room, lounge room and outdoor open space adjacent to or directly accessible from each other;</i></p> <p><i>Locate similar uses (such as bedrooms or bathrooms) back to back, to minimise internal noise transmission;</i></p> <p><i>Provide screen fencing, plantings and acoustic barriers where practicable to</i></p>	<p>Visual privacy impacts from boarding rooms should not pose a problem given the high set nature of window openings.</p> <p>No acoustic report has been submitted with the application therefore the acceptability of noise levels from relative sources and effective measures to curtail adverse impacts</p>	<p>Yes</p> <p>See DCP Boarding Houses section of the executive summary.</p>

DCP Clause	Controls	Proposal	Compliance
	<p><i>screen noise and reduce visual impacts;</i></p> <p><i>Where possible locate the main entry point at the front of the site, away from the side boundary and adjoining properties;</i></p> <p><i>Locate communal open space, balconies and windows to bedrooms or communal areas, to minimise overlooking, privacy and acoustic impacts on adjoining properties;</i></p> <p><i>An acoustic report prepared by a suitably qualified acoustic consultant must be submitted for new development or conversions/intensifications with an increase in resident numbers. The report must:</i></p> <p><i>establish the existing background noise levels;</i></p> <p><i>identify all potential noise sources from the operation of the premises, including any mechanical plant and equipment;</i></p> <p><i>estimate the level of potential noise emission;</i></p> <p><i>establish desirable acoustics performance criteria; and</i></p> <p><i>recommend any mitigation measures (such as sound proofing construction and/or management practices) required to achieve relevant noise criteria.</i></p>	<p>cannot be established.</p>	
	<p>Management Plan</p> <p><i>Submit a Management Plan with all DAs for new and existing boarding houses, that addresses the general requirements outlined in the Management Plan section in Part B, and the following specific requirements:</i></p> <p><i>Criteria and process for choosing residents. Preference should be given to people on low and moderate incomes;</i></p> <p><i>A schedule detailing minimum furnishings for boarding rooms, provision of facilities and appliances for kitchens, bathrooms and laundry rooms and maximum occupancy of each room;</i></p> <p><i>House rules, covering issues such as</i></p>	<p>A plan of management and House Rules accompany the application.</p>	<p>Yes</p>

DCP Clause	Controls	Proposal	Compliance
	<p><i>lodger behaviour, visitor and party policies, activities and noise control, use and operation hours of common areas (e.g. communal open space and living rooms) and policies for regulating smoking and consumption of alcohol and illicit drugs;</i></p> <p><i>Professional cleaning and vermin control arrangements for at minimum, the shared facilities, such as kitchens and bathrooms;</i></p> <p><i>Public notice and signs, including:</i></p> <p><i>A sign showing the name and contact number of the manager/caretaker, placed near the front entry and in a visible position to the public;</i></p> <p><i>Clear display of fixed room identification number for each boarding room; and</i></p> <p><i>Internal signage prominently displayed in each boarding room and/or communal living areas informing maximum number of lodgers per room, house rules, emergency contact numbers for essential services, annual fire safety statement and current fire safety schedule and emergency egress routes and evacuation plan.</i></p> <p><i>The manager/caretaker must maintain an up-to-date accommodation register with information on residents' details, length of stay, etc. and provide to Council officers upon request.</i></p>		

4. 79C Matters for consideration

Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	The provisions of the applicable environmental planning instruments have been addressed in the body of this report and the executive summary.
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	N/A
Section 79C(1)(a)(iii) –	The proposed development has been assessed and

Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
Provisions of any development control plan	determined to be inconsistent with some provisions of the DCP. Departures are assessed in the Executive Summary.
Section 79C(1)(a)(iia) - 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(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. However, the built form and amenity afforded to residents within the development and on surrounding properties is not acceptable.</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.

5. Referral Comments

Engineering Comments

Parking Comments

The Affordable Housing SEPP states in regulation 29(2)(e) that consent authorities must not refuse consent to development on the grounds if:

- (i) in the case of development in an accessible area-at least 0.2 parking spaces are provided for each boarding room, and*
- (ii) in the case of development not in an accessible area-at least 0.4 parking spaces are provided for each boarding room, and*
- (iii) in the case of any development-not more than 1 parking space is provided for each person employed in connection with the development.*

According to the SEPP "accessible area" means land that is within:

- (a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or*

(b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or

(c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the [Passenger Transport Act 1990](#)) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.

The site at 14 Bruce Street is within 400m of stops for major bus routes on Gardeners Road to the south including routes 302, 343 & 357. Anzac Parade is also within 400m to the east which includes many major routes including to the city and Bondi Junction as well as the route for the future light rail between Kingsford & the city. The site is therefore deemed to lie within an accessible area as defined in the SEPP.

For the subject development comprising of 20 boarding rooms including 1 room for manager.

Parking Required = 19 x 0.2 + 1 space for manager
= 3.8 + 1
= 5 spaces

Parking Provided = 4 spaces

The proposed boarding house is technically 1 carspace short if an additional space is to be required for a manager, however the SEPP (Affordable Housing) does not indicate in Clause 29 (2) (e) (iii) a minimum parking provision for staff, only that no more than one space is to be allocated. In this context it would be difficult to refuse the proposal on the basis of the perceived 1 space parking deficiency if this is the only outstanding issue.

Notwithstanding it would be Development Engineering's preference that 5 spaces be provided if possible.

Motorbike & Bicycle Parking

The Affordable Housing SEPP states in regulation 30(h) that consent authorities must not consent to development unless at least one parking space is provided for a bicycle and one for a motorcycle for every 5 boarding rooms.

As the number of boarding rooms is 19 (not including manager) this will require the provision of 4 bicycle and 4 motorbike spaces. The submitted plans demonstrate compliance with these requirements.

Waste Management Comments

In consideration of Council's Waste Management Guidelines and pre-lodgment advice given under PL/55/2014 the proposed development will be required to provide adequate storage for the following number of waste bins.

Number of Bins Required (240L) = 6 (normal) + 6 (recycling) + 1 (green waste)
= 13 x 240L bins

Number of bins provided (240L) = 13 (complies)

The applicant will be required to submit a Waste Management Plan to Council's Director of City Planning for approval prior to the issuing of a construction certificate.

Flooding Comments

The site lies within the catchment for the Kensington/Centennial Park Flood Study commissioned and adopted by Council. The study indicates that the subject site should not be affected by any significant flooding during major storm events.

Flood planning controls for the proposed development will therefore not be required with the exception of the rear carspaces which shall be provided at a minimum of 150mm above adjacent gutter/road levels to minimize the potential for gutter flows in Mary Hammer Lane entering the proposed garage/carspaces. A suitable condition has been included in this report.

Drainage Comments

The Development Engineer has included a number of conditions in this memo that relate to drainage design requirements. The applicant is required to submit detailed drainage plans to the certifying authority for approval prior to the issuing of a construction certificate.

On site stormwater detention is required for this development.

Landscape Comments

The only vegetation affected by this application is a 4m tall, semi-mature Schinus areira (Peppercorn Tree) on the Bruce Street verge, beyond the northern site boundary, in front of the adjoining property at no.12, which appears in good health and condition, and due to its location on public property, is covered by clause 5.9 of Council's LEP 2013 & clause B5 of Council's DCP 2013 – Preservation of trees or vegetation.

Its southern aspect partially overhangs in front of the subject site, so a minimal amount of pruning appears necessary, both to avoid damage to the tree, as well as to facilitate a clear line of sight in the future, with conditions requiring that this only be performed by Council, prior to the commencement of works, and wholly at the applicant's cost.

As the plans show the northern side of the new crossing being offset a distance of 1270mm from its trunk, protection conditions and a bond will also need to be imposed to ensure its preservation in the streetscape.

While the plans and site survey show an established tree in the southeast corner of the site, it is too small to be covered by the DCP, so can simply be removed and replaced with a new feature tree as part of the works.

Conditions also specify the landscape treatment that will need to be applied so as to improve the presentation of the development to the streetscape and assist with its integration into the area.

Subject to conditions the Development Engineer raises no objection to the proposal.

Building Services Unit

Proposed Development:

To demolish the existing single dwelling house and erect a part 2 part 3 storey boarding house containing 20 bedrooms to accommodate 35 persons including a resident manager.

Comments:

No objection seen. Management plan accompanies application. Suitable conditions will be recommended.

Subject to conditions the Building Services Unit raises no objection to the proposal.

6. REASONS FOR REFUSAL

- A. That Council, as the consent authority, refuses development consent under Sections 80 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 121/2014 for Demolition of all structures on site and construction of a new part 2/part 3 storey boarding house in two buildings comprising 20 rooms and 4 car spaces at No. 14 Bruce Street, Kingsford, for the following reasons:
- 1) The proposal does not satisfy certain zone objectives of the R3 Medium Density Zone under the Randwick Local Environmental Plan 2012 as the development in does not provide for an acceptable presentation to the streetscape or adequately protect the amenity of residents.
 - 2) The proposal does not satisfy the relevant requirements of the SEPP (Affordable Rental Housing) 2009 in that:
 - a) The development does not provide for adequate landscaping of the frontage of the development to Bruce Street and the resultant presentation is not compatible with the streetscape in which the building is located.
 - b) Inadequate information has been submitted to establish that adequate solar access will be available to the communal area within the development.
 - c) Inadequate detail has been submitted to establish compliance with the minimum floor areas recommended under the SEPP (Affordable Rental Housing) 2009.
 - d) No bicycle parking is provided within the development.
 - e) The proposed development in its current form is not compatible with the character of the local area in terms of the presentation of the development to the streetscape.
 - 3) The proposal does not satisfy the provisions of the DCP in regard to internal and communal facilities, outdoor communal facilities and acoustic amenity.
 - 4) The proposal does not provide for an adequate design and the resultant internal and external amenity within the development is unacceptable.
 - 5) The granting of consent to the proposal is not in the public interest.