



Randwick City  
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## **DA COMPLIANCE REPORTS**

**PLANNING COMMITTEE MEETING  
TUESDAY, 12 APRIL, 2016**

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# Development Application Compliance Report



<b>Folder /DA No:</b>	DA/658/2015
<b>PROPERTY:</b>	15A & 15B Higgs Street, COOGEE NSW 2034
<b>Proposal:</b>	Alterations and additions to existing dual occupancy including ground and first floor additions and new pergola to 15A Higgs Street, first floor alterations and additions to 15B Higgs Street.
<b>Recommendation:</b>	Approval

## Relevant Environment Planning Instruments:

### 1. SEPPs

#### 1.1 State Environmental Planning Policy (Building Sustainability Index BASIX) 2004

SEPP: BASIX requirements came into force for all new dwellings, dual occupancies and some transient residential accommodation where development applications were lodged on or after 1 July 2004. A BASIX assessment is a mandatory component of the development approval process under the Environmental Planning and Assessment Amendment (Building Sustainability Index: BASIX) Regulation 2004 and State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

The applicant has submitted a BASIX certificate. The plans have been checked with regard to this certificate and they are consistent with the requirements indicated for DA stage. Standard conditions of consent requiring the continued compliance of the development with the SEPP: BASIX.

### 2. Randwick LEP 2012

The subject site is zoned R2 Low Density Residential under Randwick LEP 2012. The proposal development is classified as a semi-detached dwelling and is permissible in the zone. The proposed development is considered to satisfy the R2 zoning objectives. The key issues section of the Council executive report identifies throughout the proposed development satisfies the relevant objectives.

The following Clauses of RLEP 2012 apply to the proposal:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	No applicable standard as the semi-detached dwellings are located within lots less than 300sqm	Lot 1: 0.78:1(157sqm/202sq m) as adjusted due to the reduction in floor area at first floor level Lot 2: 0.45:1 (98.37sqm/219sqm)	See merit assessment in the key issues section of this report.
Height of Building (Maximum)	9.5m		Yes
Lot Size (Minimum)	400sqm	No change to the lot sizes	N/A
Heritage conservation	The subject site is	The proposed	Yes, the proposed

	adjacent to a heritage item identified as 15S Higgs Street – an electrical substation	development is for first floor additions to the semi-detached dwellings and pergola on the terrace over garage at the front.	first floor addition is 4m behind the front façade of the substation and will not result in any significant adverse impacts on the significance of the heritage item.
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**3. Randwick Comprehensive DCP**

**3.1 C1 Table: Low Density Residential**

**Randwick Development Control Plan**

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

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

DCP Clause	Controls	Proposal	Compliance
	<b>Classification</b>	Zoning = R2	<b>Permissible</b>
<b>2</b>	<b>Site planning</b>		
<b>2.1</b>	<b>Lot size and frontage</b>		
		10.06m frontage and sq. area for each lot	
<b>2.3</b>	<b>Site coverage</b>		
	Up to 300 sqm = 60%	Lot 1 = No change to the site coverage of lot 1 fronting Higgs Street. Lot 2 = 33% (21sqm additional floor area at first floor level. 72sqm total within a 219sqm site area)	N/A  Yes
<b>2.4</b>	<b>Landscaping and permeable surfaces</b>		
	i) Up to 300 sqm = 20% ii) Deep soil minimum width 900mm. iii) Maximise permeable surfaces to front iv) Retain existing or replace mature native trees v) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply. vi) Locating paved areas, underground services away from root zones.	Lot 1: No change Lot 2: No change	No however there is no change to the area of landscaping on site.

DCP Clause	Controls	Proposal	Compliance
<b>2.5</b>	<b>Private open space (POS)</b>		
	<b>Dwelling &amp; Semi-Detached POS</b>		
	Up to 300 sqm = 5m x 5m ii) POS satisfy the following criteria: <ul style="list-style-type: none"> <li>Situated at ground level (except for duplex)</li> <li>No open space on podiums or roofs</li> <li>Adjacent to the living room</li> <li>Oriented to maximise solar access</li> <li>Located to the rear behind dwelling</li> </ul> Has minimal change in gradient	Lot 1: The front yard is used as an area of private open space Lot 2: The rear yard contains sufficient dimensions and area for the purposes of good amenity – no change	No, however these are not changing
<b>3</b>	<b>Building envelope</b>		
<b>3.1</b>	<b>Floor space ratio LEP 2012 = No maximum</b>	Lot 1: 0.78:1(157sqm/202sqm) as adjusted due to the reduction in floor area at first floor level Lot 2: 0.45:1 (98.37sqm/219sqm)	See Council report.
<b>3.2</b>	<b>Building height</b>		
	<b>Maximum overall height LEP 2012 = 9.5m</b>	Lot 1:8.9m Lot 2:5.9m	Yes
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	Lot 1: between 5.9m and 7m at the southern elevation. Lot 2:5.3m at southern elevation	Yes
<b>3.3</b>	<b>Setbacks</b>		
<b>3.3.1</b>	<b>Front setbacks</b> i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: <ul style="list-style-type: none"> <li>900mm for allotments with primary frontage width of less than 7m</li> <li>1500mm for all other sites</li> </ul> iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front	Lot 1: The proposal seeks to locate a pergola over the front terrace area impinging on the predominant front setback along the street.  Lot 2: No change	Pergola is conditioned to be deleted
<b>3.3.2</b>	<b>Side setbacks:</b> <ul style="list-style-type: none"> <li>Frontage less than 9m = 900mm</li> <li>Frontage b/w 9m and 12m = 900mm (Gnd &amp; 1<sup>st</sup> floor) 1500mm above</li> <li>Frontage over 12m = 1200mm (Gnd &amp; 1<sup>st</sup> floor), 1800mm above.</li> </ul>	The unusual configuration means that the side setbacks for semi-detached dwellings only apply to sites with a width of 6m to 8m. Therefore given that each dwelling has a width of 10.06m the side setbacks controls to dwellings is applied	Yes

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DCP Clause	Controls	Proposal	Compliance
		Lot 1: 975mm Lot 2: 1245mm	
<b>3.3.3</b>	<p><b>Rear setbacks</b></p> <p>i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments.</p> <p>ii) Provide greater than aforementioned or demonstrate not required, having regard to:</p> <ul style="list-style-type: none"> <li>- Existing predominant rear setback line - reasonable view sharing (public and private)</li> <li>- protect the privacy and solar access</li> </ul> <p>iv) For irregularly shaped lots = merit assessment on basis of:-</p> <ul style="list-style-type: none"> <li>- Compatibility</li> <li>- POS dimensions comply</li> <li>- minimise solar access, privacy and view sharing impacts</li> </ul>	Lot 2: 11.7m to the rear semi.	Yes
<b>4</b>	<b>Building design</b>		
<b>4.1</b>	<b>General</b>		
	<p>Respond specifically to the site characteristics and the surrounding natural and built context -</p> <ul style="list-style-type: none"> <li>• articulated to enhance streetscape</li> <li>• stepping building on sloping site,</li> <li>• no side elevation greater than 12m</li> <li>• encourage innovative design</li> </ul>	<p>The shortened depth of the first floor over the front semi is a maximum of 9.9m at the southern elevation and just over 10m at the northern elevation.</p> <p>The first floor level over lot 2 is 10m</p>	Yes
<b>4.2</b>	<b>Additional Provisions for symmetrical semi-detached dwellings</b>		
	<p>i) Enhance the pair as coherent entity:</p> <ul style="list-style-type: none"> <li>• behind apex of roof; low profile or consistent with existing roof</li> <li>• new character that is first floor at front after analysis streetscape outcome</li> </ul> <p>ii) Constructed to common boundary of adjoining semi</p> <p>iii &amp; iv) avoid exposure of blank party walls to adjoining semi and public domain</p>	The semi-detached dwellings are not symmetrical	N/A
<b>4.3</b>	<b>Additional Provisions for Attached Dual Occupancies</b>		
	<p>Present similar bulk as single dwellings and street;</p> <p>i) Parking single garage width</p> <p>ii) Articulate and soften garage entry</p> <p>iii) Minimise driveway width</p> <p>iv) Maximum 2m setback of front entry</p>	The dwellings are not dual occupancies	N/A

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DCP Clause	Controls	Proposal	Compliance
	from front façade v) Maximise landscape planting at front		
<b>4.4</b>	<b>Roof Design and Features</b>		
	i) Rooftop terraces on dwelling (not roof) ii) Roof terraces above garages (low side) Dormers iii) Dormer windows don't dominate iv) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof. v) Multiple dormers consistent vi) Suitable for existing <ul style="list-style-type: none"> <li>• Celestial windows and skylights</li> </ul> vii) Sympathetic to design of dwelling Mechanical equipment viii) Contained within roof form and not visible from street and surrounding properties.	Skillion roof design	Yes
<b>4.5</b>	<b>Colours, Materials and Finishes</b>		
	i) Schedule of materials and finishes ii) Finishing is durable and non-reflective. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climatic to withstand natural weathering, ageing and deterioration. vi) recycled and re-use sandstone (See also section 8.3 foreshore area.)		Conditioned
<b>4.6</b>	<b>Earthworks</b>		
	i) excavation and backfilling limited to 1m, unless gradient too steep ii) minimum 900mm side and rear setback iii) Step retaining walls iv) site conditions allow for side or rear setback less than 900mm (max 2.2m) v) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vi) cut and fill for POS is terraced where site has significant slope: vii) adopt a split-level design viii) Minimise height and extent of any exposed under-croft areas.	No significant excavation is being carried out as part of the proposed development	Yes

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DCP Clause	Controls	Proposal	Compliance
5	<b>Amenity</b>		
5.1	<b>Solar access and overshadowing</b>		
	<b>Solar access to proposed development:</b>		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.		Yes
	<b>Solar access to neighbouring development:</b>		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may acceptable be subject to: <ul style="list-style-type: none"> <li>• Degree of meeting the FSR, height, setbacks and site coverage controls.</li> <li>• Orientation of the subject and adjoining allotments and subdivision pattern of the urban block.</li> <li>• Topography of the subject and adjoining allotments.</li> <li>• Location and level of the windows in question.</li> <li>• Shadows cast by existing buildings on the neighbouring allotments.</li> </ul>	There have been several submissions received concerning the level of overshadowing to their private open space and north facing windows	See key issues section above
5.2	<b>Energy Efficiency and Natural Ventilation</b>		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such		BASIX certificate is sufficient for this purpose. Notwithstandin

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DCP Clause	Controls	Proposal	Compliance
	as: <ul style="list-style-type: none"> <li>• Skylights (ventilated)</li> <li>• Clerestory windows</li> <li>• Fanlights above doorways</li> <li>• Highlight windows in internal partition walls</li> <li>• living rooms contain windows and doors opening to outdoor areas</li> </ul> Note: The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable		g, the configuration of the site contains a good north facing aspect to the side elevations and contains good design elements that satisfy the Energy Efficiency and Natural Ventilation objectives.
<b>5.3</b>	<b>Visual Privacy</b>		
	<b>Windows</b>		
	i) minimise any direct viewing habitable of proposed and neighbours habitable room windows by one or more of the following measures: <ul style="list-style-type: none"> <li>- windows are offset or staggered</li> <li>- minimum 1600mm window sills</li> <li>- Install fixed and translucent glazing up 1600mm minimum effective sill.</li> <li>- Install fixed privacy screens to windows.</li> <li>- Creating a recessed courtyard (minimum 3m x 2m).</li> </ul> ii) orientate living and dining windows away from similar opposite (that is front or rear or side courtyard)	There are several windows along the southern elevation that overlook and have an outlook into the rear yards and towards habitable room windows of neighbouring properties.	See key issues section of the report
	<b>Balcony</b>		
	i) Upper floor balconies to street or rear yard of the site. (wrap around balcony to have a narrow width at side) ii) Privacy screens iii) minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers) iv) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure) v) vi) For sloping sites, step down and avoid large areas of ground floor decks or terraces.		Yes
<b>5.4</b>	<b>Acoustic Privacy</b>		
	i) noise sources not located adjacent to adjoining dwellings bedroom windows		Yes

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DCP Clause	Controls	Proposal	Compliance
	Attached dual occupancies ii) Reduce noise transmission between dwellings by: <ul style="list-style-type: none"> <li>- Locate noise-generating areas and quiet areas adjacent to each other.</li> <li>- Locate less sensitive areas adjacent to the party wall to serve as noise buffer.</li> </ul>		
<b>5.5</b>	<b>Safety and Security</b>		
	i) dwellings main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 square metres) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not to obstruct casual surveillance (maintain safe access)		Yes
<b>5.6</b>	<b>View Sharing</b>		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) retaining existing views from the living areas are a priority over low use rooms iii) retaining views for the public domain takes priority over views for the private properties iv) fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA. (certified height poles used)		Yes
<b>6</b>	<b>Car Parking and Access</b>		
<b>6.1</b>	<b>Location of Parking Facilities:</b>		
	i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street or iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. <i>Note: See 6.2 parking facilities forward of the front façade alignment may be considered.</i> iv) Single width garage/carport if frontage <12m; Double width if: <ul style="list-style-type: none"> <li>- Frontage &gt;12m,</li> </ul>		Existing

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DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> <li>- Consistent with pattern in the street;</li> <li>- Landscaping provided in the front yard.</li> <li>v) Minimise excavation for basement garages and scale of the front elevation</li> <li>vi) Avoid long driveways (impermeable surfaces)</li> </ul>		
<b>7</b>	<b>Fencing and Ancillary Development</b>		
<b>7.1</b>	<b>General - Fencing</b>		
	<ul style="list-style-type: none"> <li>i) Use durable materials</li> <li>ii) sandstone not rendered or painted</li> <li>iii) don't use steel post and chain wire, barbed wire or dangerous materials</li> <li>iv) Avoid expansive surfaces of blank rendered masonry to street</li> </ul>		
<b>7.2</b>	<b>Front Fencing</b>		
	<ul style="list-style-type: none"> <li>i) 1200mm max. (Solid portion not exceeding 600mm), except for piers.                             <ul style="list-style-type: none"> <li>- 1800mm max. provided upper two-thirds partially open (30% min), except for piers.</li> </ul> </li> <li>ii) light weight materials used for open design and evenly distributed</li> <li>iii) 1800mm max solid front fence permitted in the following scenarios:                             <ul style="list-style-type: none"> <li>- Site faces arterial road</li> <li>- Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment).</li> <li>- avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants))</li> </ul> </li> <li>iv) 150mm allowance (above 1800mm) for stepped sites</li> <li>v) Natural stone, face bricks and timber are preferred. Cast or wrought iron pickets may be used if compatible</li> <li>vi) Avoid roofed entry portal, unless complementary to established fencing pattern in heritage streetscapes.</li> <li>vii) Gates must not open over public land.</li> <li>viii) The fence must align with the front property boundary or the predominant fence setback line along the street.</li> <li>ix) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines.</li> </ul>		<p>No change except for painting</p>

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DCP Clause	Controls	Proposal	Compliance
<b>7.3</b>	<b>Side and rear fencing</b>		
	i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m). ii) Fence may exceed max. if level difference between sites iii) Tapper down to front fence height once past the front façade alignment. iv) Both sides treated and finished.		Existing
<b>7.4</b>	<b>Outbuildings</b>		
	i) Locate behind the front building line. ii) Locate to optimise backyard space and not over required permeable areas. iii) Except for laneway development, only single storey (3.6m max. height and 2.4m max. wall height) iv) Nil side and rear setbacks where: <ul style="list-style-type: none"> <li>- finished external walls (not requiring maintenance;</li> <li>- no openings facing neighbours lots and</li> <li>- maintain adequate solar access to the neighbours dwelling</li> </ul> v) First floor addition to existing may be considered subject to: <ul style="list-style-type: none"> <li>- Containing it within the roof form (attic) - Articulate the facades;</li> <li>- Use screen planting landscaping to visually soften the outbuilding;</li> <li>- Not be obtrusive when viewed from the adjoining properties;</li> <li>- Maintain adequate solar access to the adjoining dwellings; and</li> <li>- Maintain adequate privacy to the adjoining dwellings.</li> </ul> vi) Must not be used as a separate business premises.	Pergola is located in front of the main building line.	No, Pergola is conditioned to be deleted.
<b>7.5</b>	<b>Swimming pools and Spas</b>		
	i) Locate behind the front building line ii) Minimise damage to existing tree root systems on subject site and adjoining. iii) Located to minimise noise impacts on the adjoining dwellings. iv) Pool and coping related to site topography (max 1m over lower side of site). v) 900mm minimum coping from rear and side boundaries. vi) Incorporate screen planting (min. 3m mature height unless view corridors affected) between setbacks. vii) Position decking to minimise privacy impacts.		Existing

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DCP Clause	Controls	Proposal	Compliance
	viii) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings.		
<b>7.6</b>	<b>Air conditioning equipment</b>		
	i) Minimise visibility from street. ii) Avoid locating on the street or laneway elevation of buildings. iii) Screen roof mounted A/C from view by parapet walls, or within the roof form. iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings.		Conditioned

**4. 79C Matters for consideration**

Section 79C 'Matters for Consideration'	Comments
<b>Environmental Planning Instruments</b>	
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	<p><b>Randwick Local Environmental Plan 2012</b></p> <p>The site is zoned Residential R2 Low Density under Randwick Local Environmental Plan 2012 and the proposal is classified as a two semi-detached dwelling by virtue of them being contained within their own lots. It is noted that subdivision, is not separately defined under the Environmental Planning and Assessment Act. The proposed development is permissible with Council’s consent. See tables below for compliance with development standards.</p> <p>The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will provide the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.</p>
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	N/A
Section 79C(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table below.
Section 79C(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable
Section 79C(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 79C(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social	<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</p>

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Section 79C 'Matters for Consideration'	Comments
<b>Environmental Planning Instruments</b>	
and economic impacts in the locality	residential character in the locality. The proposal would not considered result in detrimental social or economic impacts on the locality.
Section 79C(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in 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**

**Development Engineer and Landscape Officer comments received 10 February 2016:**

*An application has been received for alterations and additions to existing dual occupancy including ground and first floor additions and new pergola to 15A Higgs Street, first floor alterations and additions to 15B Higgs Street (Variation to floor space ratio control) at the above site.*

*This report is based on the following plans and documentation:*

- *Architectural Plans by Kylie Mills and dated 20th September 2016;*
- *Statement of Environmental Effects by Navon Solutions dated December 2015;*
- *Detail & Level Survey by Landscape Surveys, dated 06/02/15;*
- *Strata Plans 49706 & 68269.*

**Strata Comments**

*There is an existing strata scheme operating on the site under SP 49706 and SP 68269 and the proposed alterations and additions will necessitate the preparation of new strata plans for the site in accordance with the requirements of NSW Land Property Information. The new strata plans will not result in an increase in the number of lots on the site and will effectively be a boundary adjustment between the existing strata lots and common property.*

*It has therefore been conditioned in this report that an application for a strata certificate in relation to this strata boundary adjustment be submitted and approved by Council or an accredited certifier to the satisfaction of the PCA prior to the issuing of an occupation certificate.*

**Drainage Comments**

*Surface water/stormwater (from the redeveloped portion of the site) must be drained and discharged to the street gutter in front of the site to the satisfaction of the certifying authority and details of the proposed stormwater drainage system are to be included in the construction certificate details for the development.*

**Landscape Comments**

*There is an 8m tall tree growing about halfway along the southern side setback, virtually hard up against the existing dwelling, whose canopy already overhangs the roofline. The site survey has confirmed that its trunk is located wholly within the subject site.*

Species identification is irrelevant as this tree is already exempt from from Part B, Section B5, Exceptions, point iii, of Council's DCP 2013, due to its location within 2m of the house, so can be removed, at anytime, irrespective of this application, and without needing to obtain consent.

As the plans propose a new first floor, it could not be retained (even if the applicant wanted to) as its whole northern aspect would need to be completely sheered off to provide the required clearance, which no tree can sustain, and as such, a condition requiring its removal has been provided.

**6. DEVELOPMENT CONSENT CONDITIONS**

**GENERAL CONDITIONS**

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

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

**Approved Plans & Supporting Documentation**

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

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
A100 Rev E		22.10.15	30 October 2015
A101 Rev D		20.09.15	22 September 2015
A203 Rev D		22.10.15	30 October 2015
A201 Rev D		20.09.15	22 September 2015
A202 Rev D		20.09.15	22 September 2015
A300 Rev D		20.09.15	22 September 2015
A301 Rev D		20.09.15	22 September 2015
A400 Rev D		20.09.15	22 September 2015

<b>BASIX Certificate No.</b>	<b>Dated</b>	<b>Received by Council</b>
A220673_02	19 September 2015	22 September 2015

**Amendment of Plans & Documentation**

2. The approved plans and documents must be amended in accordance with the following requirements:
  - a. The bottom sashes of the south facing kitchen window must be provided with translucent, obscured, frosted or sandblasted glazing and operability be restricted to a maximum of 125mm above the bottom sill.
  - b. The location of air conditioning units must satisfy the relevant criteria under the State Environmental Planning Policy - Exempt and Complying Development Codes 2008
  - c. The pergola located over the terrace at the front shall be deleted from the application.

**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

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demonstrate compliance with the following conditions of consent must be included in the documentation for the construction certificate.

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

### Consent Requirements

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

### External Colours, Materials & Finishes

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

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

- b) Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Manager Development Assessments prior to issuing a construction certificate for the development.

### Section 94A Development Contributions

5. In accordance with Council's Section 94A Development Contributions Plan effective from 21 April 2015, based on the development cost of \$277,150 the following applicable monetary levy must be paid to Council: \$2,771.50.

The levy must be paid in **cash, bank cheque** or by **credit card** prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9399 0999 or 1300 722 542 for the indexed contribution amount prior to payment.

To calculate the indexed levy, the following formula must be used:

$$\mathbf{IDC = ODC \times CP2/CP1}$$

Where:

**IDC** = the indexed development cost

**ODC** = the original development cost determined by the Council

**CP2** = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment

**CP1** = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.

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

### Long Service Levy Payments

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

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

### **Stormwater Drainage**

7. Surface water/stormwater (from the redeveloped portion of the site) must be drained and discharged to the street gutter in front of the site to the satisfaction of the certifying authority and details of the proposed stormwater drainage system are to be included in the construction certificate details for the development.

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

### **Sydney Water**

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

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

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

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

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

### **Electricity Substation**

9. The applicant must liaise with Ausgrid prior to obtaining a construction certificate (for any above ground works), to determine whether or not an electricity substation is required for the development. Any electricity substation required for the site as a consequence of this development shall be located within the site and shall be screened from view. The proposed location and elevation shall be shown on relevant construction certificate and landscape 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.

### **Compliance with the Building Code of Australia**

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

### **Structural Adequacy**

11. Certificate of Adequacy supplied by a *professional engineer* shall be submitted to the certifying authority (*and the Council, if the Council is not the certifying authority*), certifying the structural adequacy of the existing structure to support the additional storey/upper floor addition.

### **BASIX Requirements**

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

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

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

The BASIX certificate must be amended to reflect the approved development as referenced in condition 1 of this determination.

### **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.

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### **Certification, PCA & other Requirements**

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

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

### **Home Building Act 1989**

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

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

### **Dilapidation Reports**

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

- excavations for new dwellings, additions to dwellings, swimming pools or the like which are proposed to be located within the *zone of influence* of the footings of any dwelling, associated garage or other substantial structure located upon an adjoining premises,
- new dwellings or additions to dwellings sited up to shared property boundaries (e.g. additions to a semi-detached dwelling or terraced dwellings),
- excavations for new dwellings, additions to dwellings, swimming pools or the like which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises,
- as otherwise may be required by the Principal Certifying Authority.

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

### **Construction Noise & Vibration Management**

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

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

### **Construction Site Management Plan**

17. A *Construction Site Management Plan* must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development:

- location and construction of protective fencing / hoardings to the perimeter of the site;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;
- provisions for public safety;
- dust control measures;

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- site access location and construction
- details of methods of disposal of demolition materials;
- protective measures for tree preservation;
- provisions for temporary sanitary facilities;
- location and size of waste containers/bulk bins;
- details of proposed sediment and erosion control measures;
- provisions for temporary stormwater drainage;
- construction noise and vibration management;
- construction traffic management details.

The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works, to the satisfaction of Council.

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

### **Demolition Work Plan**

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

The Demolition Work Plan must include the following information (as applicable):

- The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor
- Details of hazardous materials (including asbestos)
- Method/s of demolition (including removal of any asbestos)
- Measures and processes to be implemented to ensure the health & safety of workers and community
- Measures to be implemented to minimise any airborne dust and asbestos
- Methods and location of disposal of any hazardous materials (including asbestos)
- Other relevant details, measures and requirements to be implemented
- Details of re-use, recycling and disposal of waste demolition/building materials
- Date the demolition works will commence

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

If the work involves asbestos products or materials, a copy of the Demolition Work Plan must also be provided to Council not less than 2 days before commencing those works.

### **Notes**

- *It is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.*
- *Refer to the conditions within the "Requirements During Construction & Site Work", for further details and requirements relating to demolition work, removal of any asbestos and public safety.*

### **Public Utilities**

19. A *Public Utility Impact Assessment* must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.

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20. The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.

**REQUIREMENTS DURING CONSTRUCTION & SITE WORK**

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

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

**Inspections During Construction**

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

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

**Site Signage**

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

**Restriction on Working Hours**

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

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

*An application to vary the abovementioned hours may be submitted to Council’s Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.*

**Demolition Work Requirements**

24. The demolition of buildings and the removal, storage, handling and disposal of building materials must be carried out in accordance with the relevant requirements of WorkCover NSW, the NSW Department of Environment, Climate Change & Water and Randwick City Council policies, including:

- Work Health & Safety Act 2011 and Regulations
- WorkCover NSW Code of Practice for the Safe Removal of Asbestos
- WorkCover NSW Guidelines and Codes of Practice
- Australian Standard 2601 (2001) – Demolition of Structures
- The Protection of the Environment Operations Act 1997 and Regulations
- Relevant EPA Guidelines
- Randwick City Council Asbestos Policy

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

**Removal of Asbestos Materials**

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

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

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

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**Sediment & Erosion Control**

26. Sediment and erosion control measures, must be implemented throughout the site works in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom, to Council's satisfaction. Details are to be included in the *Construction Site Management Plan*.

**Public Safety & Site Management**

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

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

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

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

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

28. In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 E of the *Environmental Planning & Assessment Regulation 2000*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.
29. All excavations and backfilling associated with the erection or demolition of a building must be executed safely in accordance with appropriate professional standards and

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excavations must be properly guarded and supported to prevent them from being dangerous to life, property or buildings.

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

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

30. Prior to undertaking any demolition, excavation or building work in the following circumstances, a report must be obtained from a *professional engineer* which details the methods of support for the dwelling or associated structure on the adjoining land, to the satisfaction of the *Principal Certifying Authority*:
- when undertaking excavation or building work within the zone of influence of the footings of a dwelling or associated structure that is located on the adjoining land;
  - when undertaking demolition work to a wall of a dwelling that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling);
  - when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land;
  - as may be required by the *Principal Certifying Authority*.

The demolition, excavation and building work and the provision of support to the dwelling or associated structure on the adjoining land, must also be carried out in accordance with the abovementioned report, to the satisfaction of the *Principal Certifying Authority*.

#### **Building Encroachments**

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

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

32. 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.

The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a final occupation certificate for the development.

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

#### **Tree Management**

33. The existing tree growing about halfway along the southern side setback, against the existing dwelling, must be removed so as to accommodate the first floor as shown, as it could not remain whilst completely removing its whole northern aspect. It is also noted that this tree is already exempt from Part B, Section B5, Exceptions, point iii, of Council's DCP 2013, due to its location within 2m of the house.

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

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

### **Occupation Certificate Requirements**

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

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

### **BASIX Requirements**

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

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

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

36. 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.
37. 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.

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**Strata Boundary Adjustment**

38. New strata plans shall be prepared for the site to reflect the new alterations and additions in accordance with the requirements of NSW Land Property Information. An application for a strata certificate is required to be submitted to and approved by the Council or an accredited certifier to the satisfaction of the PCA prior to the issuing of an occupation certificate.

NOTE: The new strata plans must not increase the number of strata lots currently present on the site.

39. All floors, external walls and ceilings depicted in the new strata plans must be constructed.
40. All floors, external walls and ceilings depicted in the new strata plans must correspond to those depicted in this development consent & construction certificate for the works.
41. Each strata lot must be dedicated a carspace that shall form part of the strata lot.

**OPERATIONAL CONDITIONS**

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

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

**Use of premises**

42. The premises must only be used as a single residential dwelling and must not be used for dual or multi-occupancy purposes.
43. The car spaces within the development are for the exclusive use of the occupants of the building. The car spaces must not be leased to any person/company that is not an occupant of the building.

**External Lighting**

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

**Plant & Equipment**

45. 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.

**Swimming/Spa Pools**

46. The pool plant and equipment shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:
- before 8.00am or after 8.00pm on any Sunday or public holiday; or
  - before 7.00am or after 8.00pm on any other day.

**Air Conditioners**

47. Air conditioning plant and equipment shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:

- before 8.00am or after 10.00pm on any Saturday, Sunday or public holiday; or
- before 7.00am or after 10.00pm on any other day.

#### **Rainwater Tanks**

48. The operation of plant and equipment associated with rainwater tanks are to be restricted to the following hours if the noise emitted can be heard within a habitable room in any other residential premises:

- before 8.00am or after 8.00pm on weekends or public holiday; or
- before 7.00am or after 8.00pm on weekdays.

#### **ADVISORY NOTES**

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

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

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

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

A3 In accordance with the requirements of the *Environmental Planning & Assessment Act 1979*, building works, including associated demolition and excavation works (as applicable) must not be commenced until:

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

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

A5 A Local Approval application must be submitted to and be approved by Council prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:

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

For further information please contact Council on 9399 0944.

- A6 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.
- A7 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au) and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.
- A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:
- the consent of the owners of such adjoining or supported land to trespass or encroach, or
  - an access order under the *Access to Neighbouring Land Act 2000*, or
  - an easement under section 88K of the *Conveyancing Act 1919*, or
  - an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

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

- A9 Smoke alarms are required to be installed in all residential dwellings, in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979* and the Building Code of Australia. Details should be included in the construction certificate application.
- A10 Demolition work and removal of asbestos materials:
- *A copy of Council's Asbestos Policy is available on Council's web site at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au) in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.*
  - *It is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.*
- A11 Any external lighting to the premises should be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.
- A12 Building owners and occupiers should consider implementing appropriate measures to prevent children from falling from high-level window openings and balconies (e.g. by installing window locking devices; installing heavy-duty screens to window openings; limiting the dimensions of any openings to 125mm; ensuring balustrades to balconies are at least 1m high and; locating fixtures, fittings and furniture away from high-level windows and balconies).

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

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- A13 Underground assets (eg pipes, cables etc) may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.
- A14 The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.

**D27/16**

# Development Application Compliance Report



<b>Folder /DA No:</b>	DA/925/2015
<b>PROPERTY:</b>	1-1A Chapman Avenue, MAROUBRA NSW 2035
<b>Proposal:</b>	Alterations and additions to the existing dwelling house.
<b>Recommendation:</b>	Approval

## Relevant Environment Planning Instruments:

### 1. SEPPs

#### **State Environment Planning Policy (Building Sustainability Index: BASIX) 2004**

A BASIX assessment is a mandatory component of the development approval process under the Environmental Planning and Assessment Amendment (Building Sustainability Index: BASIX) Regulation 2004 and State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

The applicant has submitted a BASIX certificate. The plans have been checked with regard to this new certificate and they are consistent with the requirements indicated for DA stage. Standard conditions of consent requiring the continued compliance of the development with the SEPP: BASIX are recommended in the approval.

### 2. Randwick LEP 2012

The subject site is zoned R3 Medium Density under Randwick LEP 2012. The proposed development is classified as an 'attached dual occupancy' and is permissible in the zone. The proposal is consistent with the relevant objectives in the R3 zone, in that it:

- enhances the amenity of the existing dwellings;
- contributes to the variety of residential stock available in the area;
- does not change the overall built form; and
- does not result in any adverse amenity impacts to the surrounding properties in terms of overshadowing, privacy and view loss.

The following Clauses of RLEP 2012 apply to the proposal:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	0.5:1	0.496:1	Yes
Height of Building (Maximum)	12 m	8.47 m	Yes
Lot Size (Minimum)	450 sqm	412 sqm	N/A
		The 'attached dual occupancy' is contained on an existing approved allotment.	

Description	Council Standard	Proposed	Compliance (Yes/No/NA)

*Clause 6.1 Acid Sulfate Soils*

The subject site is identified in a Class 4 Acid Sulfate Soil area. The proposal would not involve any excavation or significant disturbance of the soil, and therefore no management of ASS is warranted.

*Clause 6.3 Flood Planning*

Council’s Development Engineer advises that the existing lowest habitable floor level is below the required residential flood planning level. Given the minor nature of the proposed addition, the raising of the floor level of the proposed addition to comply with the flood planning level is not warranted in this circumstance. Refer to **Section 5**.

**3. Randwick Comprehensive DCP**

**3.1 C1 Table: Low Density Residential**

**Randwick Development Control Plan**

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

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

DCP Clause	Controls	Proposal	Compliance
	<b>Classification</b>	Zoning = R3 Medium Residential	
<b>2</b>	<b>Site planning</b>		
<b>2.1</b>	<b>Minimum lot size and frontage</b>		
	Minimum lot size (RLEP): • R2 = 400sqm • R3 = 325sqm		N/A
	<b>Minimum frontage</b>		
	i) Min frontage R2 = 12m ii) Min frontage R3 = 9m iii) No battle-axe or hatchet in R2 or R3 iv) Minimum frontage for attached dual occupancy in R2 = 15m v) Minimum frontage for detached dual occupancy in R2 = 18m	Min = 9m Existing = 22m (Chapman Avenue) 17 m (Maxwell Avenue)	Yes
<b>2.3</b>	<b>Site coverage</b>		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45%	Site = 412 sqm Existing = 123 sqm or 30% Proposed = 129 sqm or 31%	Yes

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DCP Clause	Controls	Proposal	Compliance
<b>2.4</b>	<b>Landscaping and permeable surfaces</b>		
	i) Up to 300 sqm = 20% ii) 301 to 450 sqm = 25% iii) 451 to 600 sqm = 30% iv) 601 sqm or above = 35% v) Deep soil minimum width 900mm. vi) Maximise permeable surfaces to front vii) Retain existing or replace mature native trees viii) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply. ix) Locating paved areas, underground services away from root zones.	Site = 412 sqm Existing = 181 sqm of 44 % Proposed = 169.5 sqm or 41%	Yes
<b>2.5</b>	<b>Private open space (POS)</b>		
	<b>Dual Occupancies (Attached and Detached) POS</b>		
	451 to 600 sqm = 5m x 5m each (except for horizontally stacked attached dual occupancies) 601sqm or above = 6m x 6m each ii) POS satisfy the following criteria: <ul style="list-style-type: none"> <li>• Situated at ground level (except for duplex)</li> <li>• No open space on podiums or roofs</li> <li>• Adjacent to the living room</li> <li>• Oriented to maximise solar access</li> <li>• Located to the rear behind dwelling</li> <li>• Has minimal change in gradient</li> </ul>	Site = 412 sqm Existing = ground floor dwelling 7 m x 7 m first floor dwelling nil Proposed = ground floor dwelling 7 m x 7 m First floor dwelling – balcony 11 sqm	Yes
<b>3</b>	<b>Building envelope</b>		
<b>3.1</b>	<b>Floor space ratio LEP 2012 = 0.5:1</b>	Site area = 412 sqm Existing FSR = 0.476:1 Proposed FSR = 0.496:1	Yes
<b>3.2</b>	<b>Building height</b>		
	<b>Maximum overall height LEP 2012 = 12 m</b>	Existing = 8.47 m Proposed = 8.47 m	Yes
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	Existing = 6.18 m Proposed = 6.18 m	Yes
<b>3.3</b>	<b>Setbacks</b>		
<b>3.3.1</b>	<b>Front setbacks</b>		
	i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: <ul style="list-style-type: none"> <li>- 900mm for allotments with primary frontage width of less than 7m</li> </ul>	Existing = 4.5 m to 5 m to Chapman Avenue and 1.5 m to Maxwell Avenue  Proposed = 4.5 m to 5 m to Chapman Avenue and 1.5 m to Maxwell	Yes

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DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> <li>- 1500mm for all other sites</li> <li>iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front</li> </ul>	Avenue  No change to existing.	
<b>3.3.2</b>	<p><b>Side setbacks:</b>                      Semi-Detached Dwellings:</p> <ul style="list-style-type: none"> <li>• Frontage less than 6m = merit</li> <li>• Frontage b/w 6m and 8m = 900mm for all levels</li> </ul> <p>Dwellings:</p> <ul style="list-style-type: none"> <li>• Frontage less than 9m = 900mm</li> <li>• Frontage b/w 9m and 12m = 900mm (Gnd &amp; 1<sup>st</sup> floor) 1500mm above</li> <li>• Frontage over 12m = 1200mm (Gnd &amp; 1<sup>st</sup> floor), 1500mm above.</li> </ul> <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings</p>	Minimum = 17 m frontage to Chapman Avenue  Existing = garage nil setback building 2.5 m to 3.5 m Proposed = garage nil setback building 2.5 m to 3.5 m stairwell on northeastern elevation would reduce setback to 1.75 m	Yes
<b>3.3.3</b>	<p><b>Rear setbacks</b></p> <ul style="list-style-type: none"> <li>i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments.</li> <li>ii) Provide greater than aforementioned or demonstrate not required, having regard to:                             <ul style="list-style-type: none"> <li>- Existing predominant rear setback line - reasonable view sharing (public and private)</li> <li>- protect the privacy and solar access</li> </ul> </li> <li>iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions of this DCP.</li> <li>iv) For irregularly shaped lots = merit assessment on basis of:-                             <ul style="list-style-type: none"> <li>- Compatibility</li> <li>- POS dimensions comply</li> <li>- minimise solar access, privacy and view sharing impacts</li> </ul> </li> </ul> <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings</p>	Merit assessment (corner allotment) Existing = 7.2 m Proposed = 7.2 m	Yes
<b>4</b>	<b>Building design</b>		
<b>4.1</b>	<b>General</b>		
	Respond specifically to the site characteristics and the surrounding natural and built context - <ul style="list-style-type: none"> <li>• articulated to enhance streetscape</li> <li>• stepping building on sloping site,</li> </ul>	The proposed first floor balcony would improve building articulation when viewed from Maxwell	

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DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> <li>• no side elevation greater than 12m</li> <li>• encourage innovative design</li> </ul>	<p>Avenue.</p> <p>The addition to the southern corner of the building and the new stair on the southeastern elevation would not be readily visible from the adjoining streets</p> <p>The alterations to the building are generally consistent with the existing built form.</p>	
<b>4.3</b>	<b>Additional Provisions for Attached Dual Occupancies</b>		
	<p>Present similar bulk as single dwellings and street;</p> <ul style="list-style-type: none"> <li>i) Parking single garage width</li> <li>ii) Articulate and soften garage entry</li> <li>iii) Minimise driveway width</li> <li>iv) Maximum 2m setback of front entry from front façade</li> <li>v) Maximise landscape planting at front</li> </ul>	<p>The proposed addition would not alter the appearance of the building when viewed from the adjoining streets.</p> <p>The existing single garage and driveway accessed from Chapman Avenue would be retained.</p> <p>The existing separate entries to both dwellings would be retained.</p> <p>The existing landscape setback along both street frontages would be retained.</p>	Yes
<b>4.4</b>	<b>Roof Design and Features</b>		
	<ul style="list-style-type: none"> <li>i) Rooftop terraces on dwelling (not roof)</li> <li>ii) Roof terraces above garages (low side)</li> </ul> <p>Dormers</p> <ul style="list-style-type: none"> <li>iii) Dormer windows don't dominate</li> <li>iv) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof.</li> <li>v) Multiple dormers consistent</li> <li>vi) Suitable for existing                             <ul style="list-style-type: none"> <li>• Celestial windows and skylights</li> </ul> </li> <li>vii) Sympathetic to design of dwelling</li> <li>Mechanical equipment</li> <li>viii) Contained within roof form and not visible from street and surrounding properties.</li> </ul>	<p>There would be no changes to the existing roof form.</p>	Yes

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DCP Clause	Controls	Proposal	Compliance
<b>4.5</b>	<b>Colours, Materials and Finishes</b>		
	i) Schedule of materials and finishes ii) Finishing is durable and non-reflective. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climatic to withstand natural weathering, ageing and deterioration. vi) recycled and re-use sandstone (See also section 8.3 foreshore area.)	The finish of the new addition would match the existing building.	Yes
<b>5</b>	<b>Amenity</b>		
<b>5.1</b>	<b>Solar access and overshadowing</b>		
	<b>Solar access to proposed development:</b>		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	As a result of internal re-planning the ground floor dwelling would have a new living area on the northwestern elevation, and would receive a minimum of 3 hours sunlight on 21 June.  The existing living room at the first floor would continue to receive sufficient sunlight through the windows on the northern elevation.	Yes
	<b>Solar access to neighbouring development:</b>		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern	The minor addition to the southern corner of the building would result in negligible amount of additional shadow.  Refer to the Key Issues section of the planning assessment report.	Yes

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DCP Clause	Controls	Proposal	Compliance
	and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may acceptable be subject to: <ul style="list-style-type: none"> <li>• Degree of meeting the FSR, height, setbacks and site coverage controls.</li> <li>• Orientation of the subject and adjoining allotments and subdivision pattern of the urban block.</li> <li>• Topography of the subject and adjoining allotments.</li> <li>• Location and level of the windows in question.</li> <li>• Shadows cast by existing buildings on the neighbouring allotments.</li> </ul>		
<b>5.2</b>	<b>Energy Efficiency and Natural Ventilation</b>		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as: <ul style="list-style-type: none"> <li>• Skylights (ventilated)</li> <li>• Clerestory windows</li> <li>• Fanlights above doorways</li> <li>• Highlight windows in internal partition walls</li> <li>• living rooms contain windows and doors opening to outdoor areas</li> </ul> Note: The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable	The proosal would improve internal amenity by providing: <ul style="list-style-type: none"> <li>• open plan kitchen and living areas;</li> <li>• expanded living area at ground level with improved solar access; and</li> <li>• a new outdoor deck forming an extension to the internal living space at ground floor dwelling</li> </ul>	Yes
<b>5.3</b>	<b>Visual Privacy</b>		
	<b>Windows</b>		
	i) minimise any direct viewing habitable of proposed and neighbours habitable room windows by one or more of the following measures: <ul style="list-style-type: none"> <li>- windows are offset or staggered</li> <li>- minimum 1600mm window sills</li> <li>- Install fixed and translucent glazing up 1600mm minimum effective sill.</li> <li>- Install fixed privacy screens to windows.</li> <li>- Creating a recessed courtyard (minimum 3m x 2m).</li> </ul> ii) orientate living and dining windows away from similar opposite (that is front or rear or side courtyard)	The potential privacy impacts are from new stair on the southeastern elevation, and the new balcony and window openings at the first floor.  Refer to the Key Issues section in the planning assessment report.	Yes
	<b>Balcony</b>		

DCP Clause	Controls	Proposal	Compliance
	i) Upper floor balconies to street or rear yard of the site. (wrap around balcony to have a narrow width at side) ii) Privacy screens iii) minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers) iv) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure) v) vi) For sloping sites, step down and avoid large areas of ground floor decks or terraces.	The existing sunroom at the first floor balcony will be converted into a new balcony. There is no significant additional privacy impact compared to the existing sunroom windows. In any event the views to No. 1 Maxwell Street are of the front yard and largely obscured by vegetation and existing fence.	Yes
<b>5.4</b>	<b>Acoustic Privacy</b>		
	i) noise sources not located adjacent to adjoining dwellings bedroom windows Attached dual occupancies ii) Reduce noise transmission between dwellings by: <ul style="list-style-type: none"> <li>- Locate noise-generating areas and quiet areas adjacent to each other.</li> <li>- Locate less sensitive areas adjacent to the party wall to serve as noise buffer.</li> </ul>	There would be no additional noise impacts between the dwellings as a result of the proposal.	Yes
<b>5.5</b>	<b>Safety and Security</b>		
	i) dwellings main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 square metres) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not to obstruct casual surveillance (maintain safe access)	The existing separate entries to each dwelling provide obvious and secure access from the street. These entries would be retained.	Yes
<b>5.6</b>	<b>View Sharing</b>		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) retaining existing views from the living areas are a priority over low use rooms iii) retaining views for the public domain takes priority over views for the private properties iv) fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing	The proposal would not impact any views from adjoining properties	Yes

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DCP Clause	Controls	Proposal	Compliance
	vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA. (certified height poles used)		
<b>6</b>	<b>Car Parking and Access</b>		
<b>6.1</b>	<b>Location of Parking Facilities:</b>		
	i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street or iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. <i>Note: See 6.2 parking facilities forward of the front façade alignment may be considered.</i> iv) Single width garage/carport if frontage <12m; Double width if: - Frontage >12m, - Consistent with pattern in the street; - Landscaping provided in the front yard. v) Minimise excavation for basement garages and scale of the front elevation vi) Avoid long driveways (impermeable surfaces)	The site contains a single vehicular access.  An existing single garage fronting Chapman Avenue is provided on the site.	
<b>6.3</b>	<b>Setbacks of Parking Facilities</b>		
	i) Garages and carports comply with Sub-Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: - nil side setback on adjoining property; - streetscape compatibility; - safe for drivers and pedestrians; and - Amalgamated driveway crossing	The existing garage has a nil side setback. There is no change to the existing situation.	Yes
<b>6.4</b>	<b>Driveway Configuration</b>		
	Maximum driveway width: - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	The driveway width is 3.4 m. There is no change to the existing situation.	No

**4. 79C Matters for consideration**

Section 79C 'Matters for Consideration'	Comments
<b>Environmental Planning Instruments</b>	
Section 79C(1)(a)(i) – Provisions of any environmental planning	Refer to <b>Section 1</b>

Section 79C 'Matters for Consideration'	Comments
<b>Environmental Planning Instruments</b>	
instrument	
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	Not Applicable
Section 79C(1)(a)(iii) – Provisions of any development control plan	Refer to <b>Section 2</b>
Section 79C(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not Applicable
Section 79C(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 79C(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The proposal would result in no additional adverse environmental impacts on the surrounding area.</p> <p>The proposed development is consistent with the dominant residential character in the locality. The proposal would 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 currently used for residential purposes and therefore considered suitable for the proposed development.
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions were received in response to Council’s public notification.
Section 79C(1)(e) – The public interest	The proposal would not result in any adverse impacts on adjoining properties and is consistent with the objectives of the zone. The proposal would not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

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**5. Referral Comments**

The application was referred to Council’ Development Engineer for comment. The following comments in relation to flooding risk and landscape were provided:

*"Flooding Comments*

*The Architect obtained a Flood Report from Council (dated 15/12/15) which advised them that the residential flood planning level for the subject site is RL 6.72 AHD.*

*It is noted that the existing ground floor level for the duplex is RL 6.14, which is 580mm below the required level. The Architect proposed only a small extension to the existing ground floor and the same at the first floor level.*

Council's DCP 2013 – Water Management – Flooding – Floor Levels 5.3 – Controls , does allow for a single (once only) addition at the existing lowest habitable floor level provided it is a maximum of 10 sqm. The proposed extensions at the ground level fall into this control and thus Development Engineering does not object to the ground floor extension being constructed below the residential flood planning level of 6.72 AHD.

*Landscape Comments*

There are no existing trees, covered by Part B5 (Preservation of Trees and Vegetation) in Council's DCP 2013, that will be affected by this proposal."

**6. 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:

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
DA01 - Site and Roof Plan/Site Analysis Plan/Sediment Control Plan - Issue A	Vienna Design Pty Ltd	December 2015	23 December 2015
DA02 – Ground Floor Plan - Issue A	Vienna Design Pty Ltd		23 December 2015
DA03 – First Floor Plan - Issue A	Vienna Design Pty Ltd		23 December 2015
DA04 – Elevations - Issue A	Vienna Design Pty Ltd		23 December 2015
DA05 – North West Elevation/Section A/Basix Requirements - Issue A	Vienna Design Pty Ltd		23 December 2015

<b>BASIX Certificate No.</b>	<b>Dated</b>	<b>Received by Council</b>
A236833	7 December 2015	23 December 2015

**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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**Consent Requirements**

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

**External Colours, Materials & Finishes**

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

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

- b) Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by the Certifying Authority prior to issuing a construction certificate for the development.

**Long Service Levy Payments**

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

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

**Security Deposits**

5. The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A(6) of the *Environmental Planning and Assessment Act 1979*:

- \$600.00 - Damage / Civil Works Security Deposit

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

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

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

**Sydney Water**

6. 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.

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

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

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

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

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

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

#### **Compliance with the Building Code of Australia**

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

#### **Structural Adequacy**

8. Certificate of Adequacy supplied by a *professional engineer* shall be submitted to the certifying authority (*and the Council, if the Council is not the certifying authority*), certifying the structural adequacy of the existing structure to support the upper floor addition.

#### **BASIX Requirements**

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

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

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

#### **Stormwater Drainage**

10. A surface water/stormwater drainage system must be provided in accordance with the following requirements, to the satisfaction of the Certifying Authority and details are to be included in the construction certificate:-

- a) Surface water/stormwater drainage systems must be provided in accordance with the relevant requirements of the Building Code of Australia (Volume 2);

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- b) The surface water/stormwater must be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit;
- c) Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises or cause a nuisance;
- d) External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises;
- e) Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works.

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

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

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

#### Certification, PCA & other Requirements

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

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

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**Home Building Act 1989**

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

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

**Construction Noise & Vibration Management Plan**

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

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

A *Construction Noise Management Plan*, prepared in accordance with the NSW EPA Construction Noise Guideline by a suitably qualified person, is to be implemented throughout the works. A copy of the strategy must be provided to the Principal Certifying Authority and Council prior to the commencement of works on site.

**Construction Site Management Plan**

14. A *Construction Site Management Plan* must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development:

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

The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works, to the satisfaction of Council.

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

**Demolition Work Plan**

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

The Demolition Work Plan must include the following information (as applicable):

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- The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor
- Details of hazardous materials (including asbestos)
- Method/s of demolition (including removal of any asbestos)
- Measures and processes to be implemented to ensure the health & safety of workers and community
- Measures to be implemented to minimise any airborne dust and asbestos
- Methods and location of disposal of any hazardous materials (including asbestos)
- Other relevant details, measures and requirements to be implemented
- Details of re-use, recycling and disposal of waste demolition/building materials
- Date the demolition works will commence

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

If the work involves asbestos products or materials, a copy of the Demolition Work Plan must also be provided to Council not less than 2 days before commencing those works.

### **Notes**

- *It is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.*
- *Refer to the conditions within the "Requirements During Construction & Site Work", for further details and requirements relating to demolition work, removal of any asbestos and public safety.*

### **Public Utilities**

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

Documentary evidence from the relevant public utility authorities confirming that their requirements have been or are able to be satisfied, must be submitted to the Principal Certifying Authority prior to the commencement of any works.

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

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

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

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

### **Inspections During Construction**

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

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

**Site Signage**

18. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:

- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
- name, address and telephone number of the *Principal Certifying Authority*,
- a statement stating that "unauthorised entry to the work site is prohibited".

**Restriction on Working Hours**

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

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

*An application to vary the abovementioned hours may be submitted to Council’s Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.*

**Demolition Work Requirements**

20. The demolition of buildings and the removal, storage, handling and disposal of building materials must be carried out in accordance with the relevant requirements of WorkCover NSW, the NSW Department of Environment, Climate Change & Water and Randwick City Council policies, including:

- Work Health & Safety Act 2011 and Regulations
- WorkCover NSW Code of Practice for the Safe Removal of Asbestos
- WorkCover NSW Guidelines and Codes of Practice
- Australian Standard 2601 (2001) – Demolition of Structures
- The Protection of the Environment Operations Act 1997 and Regulations
- Relevant EPA Guidelines
- Randwick City Council Asbestos Policy

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

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**Removal of Asbestos Materials**

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

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

**Sediment & Erosion Control**

22. Sediment and erosion control measures, must be implemented throughout the site works in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom, to Council's satisfaction. Details are to be included in the *Construction Site Management Plan*.

**Public Safety & Site Management**

23. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with:
- a) Public access to the building site and materials must be restricted by existing boundary fencing or temporary site fencing having a minimum height of 1.5m, to Council's satisfaction.  
  
Temporary site fences are required to be constructed of cyclone wire fencing material and be structurally adequate, safe and constructed in a professional manner. The use of poor quality materials or steel reinforcement mesh as fencing is not permissible.
  - b) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.

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

**Building Encroachments**

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

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

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

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

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

**Occupation Certificate Requirements**

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

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

**BASIX Requirements**

- 26. In accordance with Clause 154B of the *Environmental Planning & Assessment Regulation 2000*, a Certifying Authority must not issue an Occupation Certificate for this

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development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.

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

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

27. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works" and the following requirements:
- a) All work on Council land must be carried out by Council, unless specific written approval has been obtained from Council to use non-Council contractors.
  - b) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a *Pre-paid Works Application Form*, prior to issuing an occupation certificate, together with payment of the relevant fees.
  - c) If it is proposed to use non-Council contractors to carry out the civil works on Council land, the work must not commence until the written approval has been obtained from Council and the work must be carried out in accordance with the conditions of consent, Council's design details and payment of a Council design and supervision fee.
  - d) The civil works must be completed in accordance with Council's conditions of consent and approved design and construction documentation, prior to occupation of the development, or as otherwise approved by Council in writing.

### **OPERATIONAL CONDITIONS**

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

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

### **External Lighting**

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

### **Plant & Equipment**

29. 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.

### **Air Conditioners**

30. Air conditioning plant and equipment shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:
- before 8.00am or after 10.00pm on any Saturday, Sunday or public holiday; or

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- before 7.00am or after 10.00pm on any other day.

### Rainwater Tanks

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

### ADVISORY NOTES

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

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

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

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

- A3 In accordance with the requirements of the *Environmental Planning & Assessment Act 1979*, building works, including associated demolition and excavation works (as applicable) must not be commenced until:

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

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

- A5 A Local Approval application must be submitted to and be approved by Council prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:

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

For further information please contact Council on 9399 0944.

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- A6 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.
- A7 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au) and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.
- A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:
- the consent of the owners of such adjoining or supported land to trespass or encroach, or
  - an access order under the *Access to Neighbouring Land Act 2000*, or
  - an easement under section 88K of the *Conveyancing Act 1919*, or
  - an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.
- Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).
- A9 Smoke alarms are required to be installed in all residential dwellings, in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979* and the Building Code of Australia. Details should be included in the construction certificate application.
- A10 Demolition work and removal of asbestos materials:
- *A copy of Council's Asbestos Policy is available on Council's web site at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au) in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.*
  - *It is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.*
- A11 Any external lighting to the premises should be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.
- A12 Building owners and occupiers should consider implementing appropriate measures to prevent children from falling from high-level window openings and balconies (e.g. by installing window locking devices; installing heavy-duty screens to window openings; limiting the dimensions of any openings to 125mm; ensuring balustrades to balconies are at least 1m high and; locating fixtures, fittings and furniture away from high-level windows and balconies).
- For further information about preventing falls from windows and balconies refer to [www.health.nsw.gov.au/childsafety](http://www.health.nsw.gov.au/childsafety) or pick-up a brochure from Council's Customer Service Centre.

# Development Application Compliance Report



<b>Folder /DA No:</b>	DA/49/2016
<b>PROPERTY:</b>	14 Beach Street, CLOVELLY NSW 2031
<b>Proposal:</b>	Construction of carport structure to rear of existing residential flat building.
<b>Recommendation:</b>	Approval

## Relevant Environment Planning Instruments:

1. **SEPPs**
2. **Randwick LEP 2012**

The subject site is zoned R3 Medium Density Residential under Randwick LEP 2012. The proposal development is permissible in the zone. The relevant objective of the zone seeks to protect the amenity of residents. The proposal would not result in any adverse impact on the amenity of the adjoining residential properties, and is therefore consistent with the R3 zone objective.

The following Clauses of RLEP 2012 apply to the proposal:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	0.75:1	The proposed carport is excluded from gross floor area, and would not result in any increase in the floor space ratio (FSR). There will be no change to the FSR of the existing building on the site.	N/A
Height of Building (Maximum)	9.5m	The proposed carport is maximum 2.7m in height. There will be no change to the height of the existing building on the site.	Yes

3. **Randwick Comprehensive DCP**
- 3.2 **C2 Table: Medium Density Residential**

### Randwick Development Control Plan

The DCP provisions are structured into two components, Objectives and Controls. The Objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be

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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.)

## B6 Recycling and Waste Management

DCP Clause	Control	Proposal	Compliance
<b>B7</b>	<b>Transport, Traffic, Parking and Access</b>		
<b>3.</b>	<b>Parking &amp; Service Delivery Requirements</b>		
	Car parking requirements: 1space per 2 studios 1 space per 1-bedroom unit (over 40m <sup>2</sup> ) 1.2 spaces per 2-bedroom unit 1.5 spaces per 3- or more bedroom unit 1 visitor space per 4 dwellings	The proposed carport structure provides all-weather protection above an existing hardstand area used for parking by four vehicles. There will be no change to the approved number of car spaces on the site.	N/A
<b>C2</b>	<b>Medium Density Residential</b>		
<b>2.2</b>	<b>Landscaped open space and deep soil area</b>		
<b>2.2.1</b>	<b>Landscaped open space</b>		
	A minimum of 50% of the site area (469.4m <sup>2</sup> ) is to be landscaped open space.	The proposed carport structure would cover an existing hardstand area used for parking. There would be no reduction in landscape area on the site as a result of the proposal.	N/A
<b>2.2.2</b>	<b>Deep soil area</b>		
	(i) A minimum of 25% of the site area (234.7m <sup>2</sup> ) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.	As above	N/A
<b>4</b>	<b>Building Design</b>		
<b>4.9</b>	<b>Colours, materials and finishes</b>		
	(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans. (ii) The selection of colour and material palette must complement the character and style of the building. (iv) Use the following measures to complement façade articulation: - Changes of colours and	The proposed carport structure will have a colourbond roof. The roof should be painted a suitable colour to minimize glare. A condition to this effect is included in the recommended development consent.	Yes

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DCP Clause	Control	Proposal	Compliance
	<ul style="list-style-type: none"> <li>surface texture</li> <li>- Inclusion of light weight materials to contrast with solid masonry surfaces</li> <li>- The use of natural stones is encouraged.</li> <li>(v) Avoid the following materials or treatment:                             <ul style="list-style-type: none"> <li>- Reflective wall cladding, panels and tiles and roof sheeting</li> <li>- High reflective or mirror glass</li> <li>- Large expanses of glass or curtain wall that is not protected by sun shade devices</li> <li>- Large expanses of rendered masonry</li> <li>- Light colours or finishes where they may cause adverse glare or reflectivity impacts</li> </ul> </li> <li>(vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration.</li> <li>(vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.</li> </ul>		
<b>5</b>	<b>Amenity</b>		
<b>5.1</b>	<b>Solar access and overshadowing</b>		
	<b>Solar access for surrounding development</b>		
	<ul style="list-style-type: none"> <li>(i) Living areas of neighbouring dwellings must receive a minimum of 3 hours access to direct sunlight to a part of a window between 8am and 4pm on 21 June.</li> <li>(ii) At least 50% of the landscaped areas of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight to a part of a window between 8am and 4pm on 21 June.</li> <li>(iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.</li> </ul>	The additional shadow cast by the proposed carport structure would fall on the subject site. There would be no additional overshadowing of the adjoining property to the south at 16 Beach Street.	Yes
	<b>Car parking and access</b>		

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DCP Clause	Control	Proposal	Compliance
<b>6.1</b>	<b>Location</b>		
	(v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a basement or semi-basement for new development. (b) On grade car park may be considered for sites potentially affected by flooding. In this scenario, the car park must be located on the side or rear of the allotment away from the primary street frontage. (c) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be located towards the side and not centrally positioned across the street frontage.	The proposed carport would be located behind the existing residential flat building at the rear of the site and not visible from the street.	Yes
<b>6.2</b>	<b>Configuration</b>		
	(i) With the exception of hardstand car spaces and garages, all car parks must be designed to allow vehicles to enter and exit in a forward direction.	The configuration and manoeuvring area for vehicles would not change.	Yes
	(v) Where on grade surface parking cannot be avoided incorporate the parking area into the landscape design of the site.	The proposed carport structure would adjoin the existing retaining wall and would not impact the landscape on the site.	Yes

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**4. 79C Matters for consideration**

Section 79C 'Matters for Consideration'	Comments
<b>Environmental Planning Instruments</b>	
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	Refer to Section 1
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	Not Applicable

Section 79C 'Matters for Consideration'	Comments
<b>Environmental Planning Instruments</b>	
Section 79C(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the relevant objectives and controls of the Randwick Comprehensive DCP 2013. See table 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	The relevant clauses of the Regulations have been satisfied.
Section 79C(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	The proposed development is relatively minor in nature and would not result in any adverse environmental impacts on the surrounding area.
Section 79C(1)(c) – The suitability of the site for the development	The existing hardstand area at the rear of the site is suitable for the proposed carport structure given it is not visible from the street due to intervening buildings.
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions were received.
Section 79C(1)(e) – The public interest	The proposal not result in any adverse amenity impacts and is therefore consistent with the relevant objective of the zone. Accordingly, the proposal is considered to be in the public interest.

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**5. DEVELOPMENT CONSENT CONDITIONS**

**GENERAL CONDITIONS**

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

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

**Approved Plans & Supporting Documentation**

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

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
DWGNo.69/15	Peter Banfield	17/12/15	unknown

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



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

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

### Consent Requirements

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

### External Colours, Materials & Finishes

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

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

### Long Service Levy Payments

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

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

### Security Deposits

5. The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A(6) of the *Environmental Planning and Assessment Act 1979*:

- \$600.00 - Damage / Civil Works Security Deposit

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

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

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

### Sydney Water

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

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

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

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

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

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

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

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

#### **Compliance with the Building Code of Australia**

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

#### **Stormwater Drainage**

8. A surface water/stormwater drainage system must be provided in accordance with the following requirements, to the satisfaction of the Certifying Authority and details are to be included in the construction certificate:-
- a) Surface water/stormwater drainage systems must be provided in accordance with the relevant requirements of the Building Code of Australia (Volume 2);
  - b) The surface water/stormwater must be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit;
  - c) Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises or cause a nuisance;
  - d) External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises;
  - e) Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works.

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

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

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

**Certification, PCA & other Requirements**

9. Prior to the commencement of any building works, the following requirements must be complied with:

- a) a *Construction Certificate* must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

- b) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
- c) a *principal contractor* must be appointed for the building work, or in relation to residential building work, an *owner-builder* permit may be obtained in accordance with the requirements of the *Home Building Act 1989*, and the PCA and Council are to be notified accordingly; and
- d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
- e) at least two days notice must be given to the Council, in writing, prior to commencing any works.

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

**REQUIREMENTS DURING CONSTRUCTION & SITE WORK**

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

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

**Inspections During Construction**

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

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

**Site Signage**

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

**Restriction on Working Hours**

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

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

*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.*

**Retaining Walls**

13. Prior to undertaking any building work, a report must be obtained from a *professional engineer* which details the proposed carport structure would not adversely impact the structural integrity of the adjoining retaining wall to the satisfaction of the *Principal Certifying Authority*:

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

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

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

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

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**Occupation Certificate Requirements**

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

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

**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 Council's policies. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

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

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

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

- A3 In accordance with the requirements of the *Environmental Planning & Assessment Act 1979*, building works, including associated demolition and excavation works (as applicable) must not be commenced until:

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

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

- A5 A Local Approval application must be submitted to and be approved by Council prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:

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

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For further information please contact Council on 9399 0944.

- A6 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.
- A7 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au) and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.
- A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:
- the consent of the owners of such adjoining or supported land to trespass or encroach, or
  - an access order under the *Access to Neighbouring Land Act 2000*, or
  - an easement under section 88K of the *Conveyancing Act 1919*, or
  - an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

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

- A9 Smoke alarms are required to be installed in all residential dwellings, in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979* and the Building Code of Australia. Details should be included in the construction certificate application.
- A10 Demolition work and removal of asbestos materials:
- *A copy of Council's Asbestos Policy is available on Council's web site at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au) in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.*
  - *It is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.*
- A11 Any external lighting to the premises should be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.
- A12 Building owners and occupiers should consider implementing appropriate measures to prevent children from falling from high-level window openings and balconies (e.g. by installing window locking devices; installing heavy-duty screens to window openings; limiting the dimensions of any openings to 125mm; ensuring balustrades to balconies are at least 1m high and; locating fixtures, fittings and furniture away from high-level windows and balconies).

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

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# Development Application Compliance Report



<b>Folder /DA No:</b>	DA/484/2015
<b>PROPERTY:</b>	89-89A Mooramie Avenue, KENSINGTON NSW 2033
<b>Proposal:</b>	Change of use of the existing dual occupancy and outbuilding to a boarding house consisting of 8 rooms (containing 11 lodgers) with associated alterations and additions, including construction of access ramp, bin store area and landscaping.
<b>Recommendation:</b>	Approval

## 1.0 Relevant Legislation

### 1.1 Disability Discrimination Act 1992 (Commonwealth)

A previous application (DA/560/2014) reasoned that the development did not meet the minimum standards for access under the Disability Discrimination Act 1992. The current application contains a GN Consulting letter of recommendation dated 5 March 2015 indicating recommended measures to ensure compliance with the relevant access and mobility requirements under the BCA. These measures are generally incorporated into the plans submitted with the application and a suitable condition is included requiring compliance with the Building Code of Australia Disability (Access to Premises – Buildings) Standards 2010.

### 1.2 Environmental Planning and Assessment Act 1979 (State)

#### Unauthorised construction works

As previously indicated in the assessment of DA/560/2014, Section 109F of the *Environmental Planning and Assessment Act 1979* restricted the issuance of construction certificate for works that have been physically commenced. The main dwelling had undergone significant physical changes for which neither development consent nor a construction certificate may be issued. As such the application could not be approved in its previous form under DA/560/2014 without the necessary documentation indicating illegal works and those sought consent for in terms of use and construction. It was also stated that some illegal works have since been illegally removed.

It was further noted, that any future application would be required to properly document all building alterations and be submitted with a concurrent Building Certificate application.

The current application contains distinctions between those works carried out without consent and those sought as part of this application allowing the application for use of the boarding house to be appropriately assessed. In this respect, subject to a recommendation for approval a condition may be included in the recommendation section of this report stating that no consent is granted for works already completed and this determination only encompasses those works not already carried out and for the use of the premises as a boarding house.

## 2.0 Relevant Environment Planning Instruments:

### 2.1 SEPPs

#### 2.1.1 State Environmental Planning Policy No. 55 – Remediation of Land



State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) promotes the remediation of contaminated land for the purpose of reducing the risk of harm to human health or the environment generally.

The potential for the land to be contaminated has been considered in accordance with clause 7 of the SEPP. In accordance with subclause (4) the following matters are confirmed:

- The land is not located within an investigation area;
- The land is not known to have been used for a purpose referred to in Table 1 of the contaminated land planning guidelines; and
- The site has a known and continuing residential use that is unlikely to have contributed to contamination of the land.

The site is considered suitable for the intended continuation of residential use, without the need to undertake further investigation.

**2.1.2 State Environmental Planning Policy (Building Sustainability Index) 2004**

The application is accompanied by a BASIX certificate, which conforms, to the requirements of the SEPP in terms of solar access, energy efficiency and thermal comfort. It is noted that the applicant has provided details from a sustainable design consultant indicating that the most suitable BASIX certificate for the application is for alterations and additions as there are no new dwellings being creates such as those that would be associated with new multi dwelling units. It is considered that given the boarding rooms do not contain kitchen facilities it is considered that they wouldn’t operate in the same way as flats/units/apartments would operate that is as self-contained domiciles.

**2.1.3 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. Clause 26 of the SEPP provides that Boarding Houses under this Division are permissible within the R2 Low Density Residential zone and clause 28 stipulates that such development may be carried out with consent.

Clause 29 provides – *Standards that cannot be used to refuse consent* and Clause 30 *Standards for boarding houses*. The following tables outline the assessment:

<b>Assessment of Clause 29 – Standards that cannot be used to refuse consent</b>	
<b>Standard</b>	<b>Assessment</b>
<p><b>(1) Floor Space</b></p> <p>The density and scale of the buildings when expressed as a floor space ratio are not more than:</p> <p>(a) <i>the existing maximum floor space ratio for any form of residential accommodation permitted on the land,</i></p>	<p>The controls of RLEP 2012 identify a maximum FSR of 0.65:1 on this site. The zoning of the land does not permit residential flat buildings however the SEPP ARH allows for boarding houses at the maximum FSR permitted for residential uses on the site. Clause 4.4 92A) under the RLEP allows for dwellings on a site measuring between 450sqm and 600sqm to a maximum FSR of 0.65:1. The proposed development has a FSR of 0.57:1 and is compliant with the maximum allowable.</p> <p><b>Complies.</b></p>

<b>Assessment of Clause 29 – Standards that cannot be used to refuse consent</b>	
<b>Standard</b>	<b>Assessment</b>
<p><b>(2) Building height</b></p> <p>Building height if all proposed buildings comply with the maximum building height under another environmental planning instrument for any building on the land (that is, 12.0m building height).</p>	<p>Clause 4.3 of the RLEP limits the maximum height of buildings to 9.5m and the proposed building has a building height of up to 8.23m to the top of flue. The remaining elements of the new works sought such as the privacy screening will attain a height that is substantially below the maximum.</p> <p><b>Complies.</b></p>
<p><b>(3) Landscaped area</b></p> <p>Landscape treatment if the front setback area is compatible with the streetscape in which the building is located.</p>	<p>The proposed development remains setback from the Mooramie Avenue frontage with the external access ramp being the only new element located between the existing building and front boundary. The ramp is not immediately noticeable from street level and the front setback and the appearance of the development from the Mooramie Street frontage will be generally consistent with the prevailing setback in this section of the Street. The retention of two trees in the front yard will provide for a suitable landscaping scheme that will continue to contribute to the streetscape in a manner compatible with surrounding development.</p> <p><b>Complies.</b></p>
<p><b>(4) Solar access</b></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>	<p>The communal room is located with a northern aspect and achieves more than compliant sunlight access between 8am and 4pm in mid-winter. An analysis of shadow impacts reveals that this window will receive solar access to at least 95% of its surface area at the hours of 10am and 2pm during the winter solstice with total solar access during a substantial portion of this period.</p> <p><b>Complies.</b></p>
<p><b>(5) Private open space</b></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</p>	<p>(i) Open space for lodgers: The proposed development includes 1 communal area in the rear yard measuring 24sqm between the outbuilding and the rear decks with</p>

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<b>Assessment of Clause 29 – Standards that cannot be used to refuse consent</b>	
<b>Standard</b>	<b>Assessment</b>
<p>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. N/A</p>	<p>minimum dimension of 3m. Accessible ramp access is provided from the southern side of the site thus addressing the inaccessibility issue identified in the previous application considered by Council DA/560/2014.</p> <p>Additionally, the rear balconies' at ground and first floor level also provide additional areas of outdoor communal open space for the occupants.</p> <p><b>Complies.</b></p>
<p><b>(6) Parking</b></p> <p>If:</p> <p>(i) in the case of development in an accessible area—at least 0.2 parking spaces are provided for each boarding room. (1.6 Required)</p> <p>(ii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site. N/A</p>	<p>The proposal is located within an accessible area. Parking for 2 vehicles is provided for residents.</p> <p><b>Complies.</b></p>
<p><b>Accessible area</b></p> <p>The SEPP (Affordable Rental Housing) 2009 provides for parking minimums on the basis of accessibility. The SEPP provides the following definition of accessible area:</p> <p><b>accessible area</b> means land that is within:</p> <p>(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</p> <p>(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</p> <p><b>(c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the <a href="#">Passenger Transport Act 1990</a>) 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.</b></p> <p>The <i>Passenger Transport Act 1990</i> provides the following definition of 'regular bus service':</p> <p><b>regular bus service</b> means any regular passenger service conducted by bus (including any transitway service).</p> <p>The site fronts Mooramie Avenue with a secondary frontage to Barker Street and is located approximately 350m from Anzac Parade (provides a regular bus service thus qualifying as an accessible site) and 280m from the Kensington Town Centre (B2 Local Centre zone).</p> <p>The frequency of services for a number of routes satisfies the requirements of the definition.</p>	

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<b>Assessment of Clause 29 – Standards that cannot be used to refuse consent</b>	
<b>Standard</b>	<b>Assessment</b>
<b>Complies.</b>	
<p><b>(7) Accommodation size</b></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>	<p>All boarding rooms are above the 12sqm for single lodgers. There are two rooms with areas above 16sqm allowing double lodgers (bdr 3 &amp; 8).</p> <p><b>Complies.</b></p>
<p>A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</p>	<p>The proposal includes two rooms with private bathroom facilities.</p> <p><b>Complies.</b></p>

<b>Assessment of Clause 30 Standards for boarding houses</b>	
<b>Standard</b>	<b>Assessment</b>
<p>(a) If a boarding house has 5 or more boarding rooms, at least one (1) communal living room will be provided.</p>	<p>A communal living room has been provided within the building. Note the communal living room at ground level contains two areas allowing for passive TV viewing and a larger area with table and chairs allowing for more active communal interaction.</p> <p><b>Complies.</b></p>
<p>(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.</p>	<p>All rooms are well under the maximum allowable.</p> <p><b>Complies.</b></p>
<p>(c) No boarding room will be occupied by more than 2 adult lodgers.</p>	<p>Rooms Bdr 3 &amp; Bdr 8 have internal floor area greater than 16sqm and thus capable of accommodating two lodgers within each room. A condition is also included in the recommendation restricting the occupancy of rooms.</p> <p><b>Complies.</b></p>
<p>(d) Adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger.</p>	<p>There are adequate facilities on each level with some individual facilities provided for Bdr 4 &amp; 5 single lodger rooms.</p> <p><b>Complies.</b></p>
<p>(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.</p>	<p>The proposed development will accommodate less than 20 lodgers. An onsite manager’s room is not required.</p> <p><b>Complies.</b></p>
<p>(g) If the boarding house is on land zoned primarily for commercial purposes, no part</p>	<p>N/A</p>

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<b>Assessment of Clause 30 Standards for boarding houses</b>	
<b>Standard</b>	<b>Assessment</b>
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.	
(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.	The outbuilding contains two car parking spaces, 2 motorcycle spaces and two bicycle spaces.  <b>Complies.</b>

**Assessment of Clause 30A- Character of the local area**

**Character of the local area**

The consent authority is required to take into consideration whether the design of the development is compatible with the character of the local area.

Context:

The site has a frontage of 10.215m to Mooramie Avenue, a 39.015m secondary frontage to Barker Street and a total site area of 589.7sqm.

To the north, west and east the site is surrounded by detached dwelling houses. Further to the east on either side of Houston Road are properties zoned R3 medium density residential allowing for smaller scale residential flat buildings that also permit boarding houses with a bonus of 0.5:1 FSR allowed under the SEPP ARH 2009. Further eastward, the site is located within 300m of the Kensington Town Centre along Anzac Parade that allows for developments with a height limit of 24m. The UNSW located on the eastern side of Anzac Parade contains large elements of student accommodation. The site is located approximately 6km from the Sydney CBD.

The locality is occupied by a mix of low to medium density residential and infrastructure type land uses of a built form and spatial separation that is comparable to and compatible with the proposed development.

The following image demonstrates the zoning context.

**Zoning context**

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**Assessment of Clause 30A- Character of the local area**



Compatibility of built form:

When viewed from Mooramie Avenue, Barker Street and surrounding properties the development will read as a 2 storey dwelling as shown in photo 1 below.



Although the proposed development does not meet the minimum landscaped area required for dwellings by the RDCP 2013, the development continues to contain suitable trees between the front ramp and the front boundary, additional deep soil areas have been provided such that it will not be discernible from street level. In essence, the proposed development will not affect the discernible spatial separation that currently exists at the front of the site and it will not be inconsistent with the predominant front building line or setbacks along this side of Mooramie

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**Assessment of Clause 30A- Character of the local area**

Avenue or the secondary street frontage. The proposed ramp which is the reason for the shortfall in landscaping and one of the reasons for refusal of the previous development application before Council is lessened by the provision of additional deep soil, retention of two trees within the front setback of the development and the loss of only one tree to provide disabled access ramp in the front and along the secondary street frontage.

It is noted that the nearby R2 and R3 zoned properties surrounding area allow for a maximum FSR of 0.75:1 and a height limit of 9.5m. Within this context, the proposed development is entirely compatible.

Compatibility of use:

The proposed use of the site, which comprises boarding house with 8 rooms and a maximum of 10 lodgers (reduced from the 11 initially proposed) constitutes a permissible form of development one that is envisaged by the SEPPARH 2009. Effective measures in relation to operation and management of the boarding house have been employed in a Plan of Management. These measures are recommended for enforcement by way of an appropriate condition of consent and will ensure that the development results in sustainable amenity impacts to adjoining residents. The proposed development will provide affordable housing to the community in a location within close proximity to the University of NSW, public transport, infrastructure facilities including the POW hospital and commercial centres integrating effectively into the evolving character of the locality.

Consistency with the objectives of the Residential R2 zone;

The proposal is clearly consistent with the objectives of the zone, detailed as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provides 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.*

The physical impacts on surrounding properties are negligible and the DCP section of this report is assessed as acceptable subject to appropriate conditions of consent. Furthermore the appearance of the proposed development will not markedly be changed and will remain be in harmony with the existing nature of the streetscape.

The local character test is satisfied on this occasion.

The application is therefore consistent with the requirements of the SEPP.

**2.2 Randwick LEP 2012**

The subject site is zoned R2 Low Density under Randwick LEP 2012. The proposal development is classified as a boarding house and is permissible in the zone. The proposal is consistent with the objectives of the zone, which are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provides facilities or services to meet the day to day needs of residents.*

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- 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.

As indicated in the earlier section the proposed development is considered to be consistent with the R2 zone objectives

The following Clauses of RLEP 2012 apply to the proposal:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum) Clause 4.4 (2A) is applied as required by Clause 29(1)a) of the SEPP ARH 2009 which states a consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than <b>the existing maximum floor space ratio for any form of residential accommodation permitted on the land,</b>	The RLEP 2012 allows for a dwelling house to a maximum FSR of <b>0.65:1</b> as the site measures between 450sqm and 600sqm.	0.57:1	Yes
Height of Building (Maximum)	9.5m	8.23m from top of flue to ground level existing (RL30.60 - RL22.37)	Yes

### 2.3 Randwick Comprehensive DCP

#### 2.3.1 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	<p><b>Building Design</b></p> <p><b>Boarding rooms</b>  <i>Orientate to receive the maximum amount of sunlight;</i></p> <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>The proposal provides a northern aspect to 3 of the 7 rooms. The southern facing rooms (Bdr 2 &amp; 3 and Bdr 6 &amp; 8) and do not have direct access to sunlight. However these rooms do not have any adjoining structures located opposite and will thus allow for adequate natural light to all rooms within the development.</p> <p>The development includes three areas of open space that are capable of receiving solar access. These include: ground and first floor level balconies as well as the rear yard of the site.</p>	<p>No in relation to south facing rooms noted at left. However, given the development is an adaptive reuse of an existing dwelling for the purposes of a boarding house and these rooms have unobstructed outlook from their windows and they have direct access to areas of open space that have direct sunlight access, it is considered that arrangement of rooms for the purposes of sunlight is acceptable.</p>
	<p><b>Outdoor Communal Open Space</b>  <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>The proposal provides one 24sqm area of open space at ground level within the rear yard accessible to all lodgers. The dimensions of trafficable areas is less than 3m however this is only marginal and moreover the definition under the SEPP or the RDCP does not exclude garden areas.</p> <p>The development includes mainly hard surface open space areas in the rear yard with deep soil retained strategically along the side boundaries and within the front yard to assist with stormwater retention</p>	<p>Yes – however see key issues section of the Council report</p> <p>Yes</p>

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DCP Clause	Controls	Proposal	Compliance
	<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>within the site.</p> <p>The rear yard contains some garden striping providing reasonable amenity.</p> <p>Landscaping is limited but sensitively located to provide for adequate softening of the development to front, side and rear boundary interfaces. It is noted that more landscaping is retained to the front of the site than that which was sought under the previous DA (DA/560/2014).</p> <p>Seating and BBQ area is provided within the rear yard communal open space.</p> <p>The rear yard contains an open awning over a portion of the rear yard providing suitable weather protection.</p> <p>The existing rear deck and first floor balcony also provide weather protection.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
	<p><b>Indoor Communal Facilities</b>  <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 (48m<sup>2</sup>); and</i></p> <p><i>Orientate to maximise solar access and have a northerly aspect where possible.</i></p>	<p>A communal room of 20m<sup>2</sup> is provided for residents. This area is well located on the ground floor with a northern orientation and ideal sunlight access. The room provides at least 2.2sqm of space for each boarder (based on the reduction of boarders from 11 down to 9).</p>	<p>Yes</p>
	<p><b>Communal Kitchen Bathroom and Laundry Facilities</b></p>		

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DCP Clause	Controls	Proposal	Compliance
	<p><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; 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 clotheslines to maximise solar access while not compromising the street amenity or usability of communal open space.</i></p>	<p>All boarding rooms have access to kitchen and bathroom facilities.</p> <p>Communal laundry and kitchen facilities are also provided at upper floor level and all are well positioned so as not to impact on the amenity of boarding rooms or neighbouring properties.</p> <p>Note: an acoustic report has been submitted with the application indicating compliance with the relevant objectives. Further a condition is included requiring a follow up acoustic report demonstrating compliance with the noise criteria.</p> <p>Drying areas adjacent to the southern courtyard will have all direct solar access and is adequately screened and will not impact the usability of open space.</p>	<p>Yes</p>
	<p><b>Safety and Crime Prevention</b></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</i></p>	<p>Design of the boarding house generally incorporates adequate safety and crime prevention:</p> <p>Habitable boarding rooms will have casual surveillance over the street and communal open spaces</p> <p>No obstructions</p>	<p>Yes subject to condition limiting the planting within the front yard to low level planting.</p>

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DCP Clause	Controls	Proposal	Compliance
	<p><i>not interfere with sight lines nor provide opportunities for concealment or entrapment.</i></p>		
	<p><b>Visual and Acoustic Amenity and Privacy</b>  <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>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>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>Provide screen fencing, plantings and acoustic barriers where practicable to screen noise and reduce visual impacts;</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> <ul style="list-style-type: none"> <li><i>• establish the existing background noise levels;</i></li> <li><i>• identify all potential noise sources from the operation of the premises, including any mechanical plant and equipment;</i></li> <li><i>• estimate the level of potential noise</i></li> </ul>	<p>All are shown on the plans.</p> <p>The kitchen at each level is accessible to outdoor open spaces.</p> <p>Bedrooms are generally located above each other except for bedroom 5 (1<sup>st</sup> floor), which is located above the communal room.</p> <p>The communal open space areas are well screened.</p> <p>The main entry point is located at the secondary street frontage towards the Mooramie Avenue frontage, which is well away from neighbouring properties.</p> <p>An acoustic report has been submitted with the application.</p> <p>Existing background noise levels have been established in the report and future reports will need to confirm the background noise levels.                      The acoustic report is considered sufficient for the purposes of outlining the likely noise from the</p>	<p>Yes</p> <p>The location of boarding rooms within the premises required further assessment – see the Council report.</p> <p>See key issues section of Council report</p> <p>See also discussion of acoustic amenity in the key issues section of the Council report.</p>

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DCP Clause	Controls	Proposal	Compliance
	<p><i>emission;</i></p> <ul style="list-style-type: none"> <li>• <i>establish desirable acoustics performance criteria; and</i></li> <li>• <i>recommend any mitigation measures (such as sound proofing construction and/or management practices) required to achieve relevant noise criteria.</i></li> </ul>	<p>operation of the premises.</p> <p>The above measures will ensure acceptable mutual levels of visual and acoustic privacy between the proposed development and surrounding properties.</p>	
	<p><b>Management Plan</b>  <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 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</i></p>	<p>A plan of management and House Rules accompany the application. Adherence to these controls will be a conditional requirement of the consent.</p>	<p>Yes</p>

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DCP Clause	Controls	Proposal	Compliance
	<p><i>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>	No manager caretaker is required as the premises is sought to accommodate less than 20 rooms	

**2.3.2 B6 Recycling and Waste Management**

DCP Clause	Control	Proposal	Compliance
<b>4.</b>	<b>On-Going Operation</b>		
	(iv) Locate and design the waste storage facilities to visually and physically complement the design of the development. Avoid locating waste storage facilities between the front alignment of a building and the street where possible.	<p>Located along the secondary street boundary behind the fence line.</p> <p>Will not be visible form streetscape or surrounding properties.</p>	Yes
	(v) Locate the waste storage facilities to minimise odour and acoustic impacts on the habitable rooms of the proposed development, adjoining and neighbouring properties.		Yes
	(vi) Screen the waste storage facilities through fencing and/or landscaping where possible to minimise visual impacts on neighbouring properties and the public domain.		Yes
	(vii) Ensure the waste storage facilities are easily accessible for all users and waste collection personnel and have step-free and unobstructed access to the collection point(s).		Yes
	(viii) Provide sufficient storage space within each dwelling / unit to hold a single day's waste and to enable source separation.		Yes
	(ix) Bin enclosures / rooms must be ventilated, fire protected, drained to the sewerage system		Yes

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DCP Clause	Control	Proposal	Compliance
	and have lighting and water supply.		

**3.0 79C Matters for consideration**

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

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**4.0 Referral Comments**

**4.1 Building Surveyor comments:**

**Proposed Development:**

*It is proposed to make alterations and additions to the existing 2 storey dwelling and to an existing rear garage to create a Class 3 boarding house in the existing dwelling and a Class 1b boarding house in the outbuilding.*

**Comments:**

*It is noted that a satisfactory and comprehensive Fire Engineering report including alternative solutions and also a BCA report accompany the application. No objection is seen. Appropriate conditions will be recommended*

**Recommendation:**

*Should the application be approved it is recommended that conditions be included in the consent.*

**4.2 Senior Health Officers comments:****Proposed Development:**

*Proposed boarding house for accommodation for 9 boarders rooms, communal room and associated facilities.*

**Comments:**

*Acoustic Amenity*

*An acoustic report was submitted to Council prepared by Acoustic Logic titled " 89-89A Mooramie Avenue Kensington Environmental Noise Impact Assessment " dated 15<sup>th</sup> June 2015 ref no: 20150452.1/1506A/RO/BW which includes recommendations to address noise impact from the proposal and recommended measures for ensuring noise criteria is complied with for the operation of the premises.*

*The use and the operation of the boarding house accommodation has the potential to create offensive noise and the patrons behaviours may impact on the other users of the boarding house and/or the neighbouring residential properties. As a result a plan of management has been included in this application to minimise potential disturbance.*

*The use and operation of the boarding house shall be in accordance with the Plan of Management (PoM) submitted to Council with the Development Application. The implementation of the PoM should assist in minimising disturbances and anti-social behaviour.*

*The use of the common areas has been proposed to be restricted by times of permitted use.*

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

**Environmental Pollution**

*Standard conditions in relation to pollution control have been included in the following referral to ensure compliance with relevant legislation and guidelines.*

**Recommendation:**

*Should the application be approved it is recommended that ... conditions be included in the consent.*

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### 4.3 Development Engineering and Landscape Officers comments:

An application has been received for the change of use of the existing dwelling house and outbuilding to a boarding house consisting of 8 rooms with associated alterations and additions, including construction of access ramp, bin store area and landscaping. at the above site.

This report is based on the following plans and documentation:

- Architectural Plans by New Era Design dated 12<sup>th</sup> April 2015;
- Statement of Environmental Effects by Willana & Associates stamped by Council 20<sup>th</sup> July 2015.

#### **Flooding Comments**

The Council commissioned and adopted Kensington/Centennial Park flood study predicts flooding at the rear of the property within the adjacent Council drainage reserve with floodwaters also likely to enter the rear of the property during significant storm events.

As the development proposal is contained within the existing building footprint (i.e. no additional floor area proposed) Development Engineering will not require a flood report or the raising of any floor levels however it is recommended that the existing unauthorized door on the eastern face of the outbuilding fronting the drainage reserve should be bricked up since it is a path for floodwaters to enter the outbuilding. It is noted that architectural plans do indicate this is proposed and is therefore satisfactory.

In addition, all new electrical outlets within the outbuilding will be required to be a minimum of 0.8m above the existing floor level. It is also recommended that the Plan of Management include provisions for evacuation during major flooding events.

Appropriate conditions have been included in this report.

#### **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" includes land that is within:

- 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 is located within 400m of bus stops on Anzac Parade which has regular and frequent services to the city and other destinations. The site is therefore considered to lie within an accessible area and the rate of 0.2 spaces per room is applicable. It is also noted that a manager will not be resident on the site which is acceptable considering there will be less than 20 rooms.

Vehicle Parking Required = 8(no of rooms) x 0.2 = 1.6  
= say 2 spaces

Vehicle Parking Provided = 2 spaces (complies)

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The Affordable Housing SEPP also 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.

The 8 room boarding house will therefore require the provision of 2 bicycle and 2 motorbike spaces. The submitted plans demonstrate compliance with this requirement however the tandem arrangement of the motorcycle spaces is not supported. There is sufficient width within the garage to have two carspaces (2 x 2.7) and two motorcycle spaces (2 x 1.2m) side by side without the need for tandem parking. This can be dealt with by condition and has been included in this report. No further objections are raised and the application is supportable on parking grounds subject to conditions.

### **Waste Management Comments**

Council's 'Waste Management Guidelines for Proposed Developments' specify a waste generation rate for boarding houses of 9L/occupant/day for normal garbage and 3L/occupant per day for recycling.

For the proposed development consisting of 8 rooms (11 boarders) waste generation is calculated as follows;

#### Normal Garbage (weekly collection)

Amount = 9 x 11 x 7 = 693 Litres

Number of bins = 693/240 (standard 240L MGB) = 2.88 = say 3 bins

#### Recyclables (fortnightly collection)

Amount = 3 x 11 x 14 = 462 Litres

Number of bins = 462/240 = 1.9 = say 2 bins

Total = 5 x 240L bins

The submitted plans have indicated an area to be dedicated for waste storage large enough for 6 bins adjacent to the Barker St frontage. This is satisfactory.

**Comment: The number of rooms has been reduced down to 7 by a condition requiring the deletion of room BR9 within the outbuilding due to its poor amenity associated with it being adjacent to parking and communal open space. The reduction means the number of parking spaces required is reduced down to 1.4 rounded down to 1 space reducing the parking required. Thus the proposed parking is above that required by the SEPPARH 2009.**

## **5.0 DEVELOPMENT CONSENT CONDITIONS**

### **GENERAL CONDITIONS**

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

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

### **Approved Plans & Supporting Documentation**

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

**D32/16**

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
DA 02 Revision B	New Era Design	12.04.15	20 July 2015
DA 03 Revision B		12.04.15	20 July 2015
DA 04 Revision B		12.04.15	20 July 2015
DA 05 Revision B		12.04.15	20 July 2015
DA 06 Revision C		08.09.15	1 October 2015
DA 07 Revision B		12.04.15	20 July 2015
DA 08 Revision B		12.04.15	20 July 2015
DA 09 Revision B		12.04.15	20 July 2015
DA 10 Revision B		12.04.15	20 July 2015
DA 12 Revision B		12.04.15	20 July 2015

<b>BASIX Certificate No.</b>	<b>Dated</b>	<b>Received by Council</b>
A219438	16 June 2015	20 July 2015
A219441	16 June 2015	20 July 2015

### **Amendment of Plans & Documentation**

2. The approved plans and documents must be amended in accordance with the following requirements:

- a. The privacy screens having a height 1.8m above floor level must be provided to those shown on the referenced plans. The privacy screens must be constructed of metal or timber and the total area of any openings within the privacy screens must not exceed 25% of the area of the screen. Alternatively, the privacy screens may be constructed with translucent, obscured, frosted or sandblasted glazing in a suitable frame. Materials selected for the privacy screens must be consistent with the colours and materials colour schedule submitted with the application.
- b. The following window must have a minimum sill height of a 1.6m above floor level, or alternatively, the window is to be fixed and be provided with translucent, obscured, frosted or sandblasted glazing below this specified height:
  - North facing ground level TV room window
- c. An external privacy screen is required to be attached to the north facing common room window. The screen shall have a height of 1600mm above the internal floor level. The external screen shall be fixed at an angle to avoid overlooking into the habitable room window of No. 87 Mooramie Avenue. Details of compliance are to be submitted to and approved by Councils Manager Development Assessment prior to the issue of Construction certificate.

Note: All privacy screens must be installed prior to the issue of any occupation certificate.

- d. This consent does not include approval for any internal/external building works carried out prior to the issuing of this consent. This includes the unauthorised works shown on the plans reference in condition 1 including the works carried out to the header of the north facing ground level common room window.
- e. All boarding rooms apart from Rooms BR3 and BR8 (which are double lodger rooms) shall only be occupied by a single lodger. The management of the boarding facility shall be responsible for ensuring that this requirement is adhered to by validating relevant personal details before admission. This condition is to ensure that strangers are not sharing the single rooms and potentially altering the approved use of the premises.

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- f. Boarding room BR9 shall be deleted from the development. This room does not contain suitable amenity as it is located adjacent to both the parking area and the communal open space.

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

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

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

#### Consent Requirements

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

#### External Colours, Materials & Finishes

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

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

- b) Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Manager Development Assessments prior to issuing a construction certificate for the development.

#### Section 94A Development Contributions

4. In accordance with Council's Section 94A Development Contributions Plan effective from 21 April 2015, based on the development cost of \$216,500 the following applicable monetary levy must be paid to Council: \$216,500.

The levy must be paid in **cash, bank cheque** or by **credit card** prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9399 0999 or 1300 722 542 for the indexed contribution amount prior to payment.

To calculate the indexed levy, the following formula must be used:

$$\text{IDC} = \text{ODC} \times \text{CP2/CP1}$$

Where:

**IDC** = the indexed development cost

**ODC** = the original development cost determined by the Council

**CP2** = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment

**CP1** = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.

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

### **Long Service Levy**

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

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

### **Security Deposit**

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

- \$800.00 - Damage / Civil Works Security Deposit

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

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

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

### **Stormwater Drainage**

7. Surface water/stormwater (from the redeveloped portion of the site) must be drained and discharged to the street gutter in front of the site to the satisfaction of the certifying authority and details of the proposed stormwater drainage system are to be included in the construction certificate details for the development.

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

### **Flooding**

8. Plans submitted for the construction certificate must demonstrate compliance with the following measures designed to assist in address flooding impacts
- a) Any new electrical outlets in the outbuilding are to be provided at a minimum of 0.8m above the existing floor level
  - b) Any new floor & wall coverings in the outbuilding below 0.8m above the existing floor level shall be constructed of materials that are not adversely affected by stormwater inundation.

### **Sydney Water**

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

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

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

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

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

### **Waste Management**

10. Waste Management provisions must be implemented in accordance with the Waste Management Plan submitted with the development application (Prepared by Willana & Associates and stamped by Council 20th July 2015, subject to the following amendments:-

- Full details of waste disposal contactors & disposal locations are to be provided
- Details and receipts verifying the recycling and disposal of materials must be kept on site at all times and presented to Council officers upon request.

The amended WMP shall be submitted to Council's Director of City Planning for approval prior to the issuing of a construction certificate.

### **Parking**

11. The motorbike parking is to be reconfigured so the spaces are side by side as tandem parking is not permitted for boarding houses. Plans submitted for the construction certificate shall demonstrate compliance with this requirement and satisfactorily demonstrate all spaces complying with the minimum requirements of AS 2890.1:2004 to the satisfaction of the certifying authority.

### **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**

12. 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.
13. All new building work (including alterations, additions, fit-out work and fire safety works) are to be carried out in accordance with the relevant provisions of the Building Code of Australia (BCA) and details are to be included in the Construction Certificate, to the satisfaction of the Certifying Authority.

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14. The existing levels of fire and safety within the building are to be upgraded in accordance with the following requirements, to provide improved levels of fire and occupant safety in the building:
- Fire safety and building upgrading works are to be implemented in accordance with the recommendations contained in the Building Code of Australia report prepared by Steven Saad from Certified Building Solutions, Report No. 405711, dated 11 August 2014 and the Fire Engineering Report prepared by GN Consulting, Project No.8980, Revision A, dated 4 March 2015

Details of the above works are to be included in the construction certificate, to the satisfaction of the Certifying Authority.

15. The building and fire safety upgrading works must be included in the *Construction Certificate* for the development and must be carried out prior to issuing of a final *Occupation Certificate* for the development. Written correspondence must be provided to Council which confirms that all of the upgrading works have been carried out in accordance with the conditions of consent.

#### **Access & Facilities**

16. Access and/or facilities for people with disabilities must be provided to all new building work in accordance with any relevant provisions of the Building Code of Australia Disability (Access to Premises – Buildings) Standards 2010, 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**

17. 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; and

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- e) the relevant requirements of the *Home Building Act 1989* must be complied with and details provided to the Principal Certifying Authority and Council.

### **Demolition Work & Removal of Asbestos Materials**

18. Demolition work must be carried out in accordance with the following requirements:

- a) Demolition work must be carried out in accordance with Australian Standard, AS2601 (2001) - The Demolition of Structures and a Demolition Work Plan is required to developed and implemented to the satisfaction of the Principal Certifying Authority prior to commencing any demolition works.
- b) The demolition, removal, storage and disposal of any materials containing asbestos must be carried out in accordance with the relevant requirements of WorkCover NSW, Council's Asbestos Policy and the following requirements:
- A licence must be obtained from WorkCover NSW for the removal of friable asbestos and or more than 10m<sup>2</sup> of bonded asbestos (i.e. fibro)
  - Asbestos waste must be disposed of in accordance with the *Protection of the Environment Operations Act 1997* & relevant Regulations
  - A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress"
  - A Clearance Certificate or Statement must be obtained from a suitably qualified person (i.e. Occupational Hygienist) upon completion of the asbestos removal works, which is to be submitted to the Principal Certifying Authority and Council prior to issuing an Occupation Certificate.

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

### **Construction Noise & Vibration**

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

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

### **Dilapidation Reports**

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

- excavations for new dwellings, additions to dwellings, swimming pools or the like which are proposed to be located within the *zone of influence* of the footings of any dwelling, associated garage or other substantial structure located upon an adjoining premises,
- new dwellings or additions to dwellings sited up to shared property boundaries (e.g. additions to a semi-detached dwelling or terraced dwellings),
- excavations for new dwellings, additions to dwellings, swimming pools or the like which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises,
- as otherwise may be required by the Principal Certifying Authority.

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

**Public Utilities**

- 21. 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 Inspection Requirements**

- 22. 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.

**Excavations & Support of Adjoining Land**

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

**Permitted Working Hours**

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

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

*An application to vary the abovementioned hours may be submitted to Council’s Manager Health, Building & Regulatory Services for consideration and approval to vary*

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*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**

25. 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:

- 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,
  - 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) 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.
- d) 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 Building Services section.
- e) During demolition and 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.

Details of the proposed sediment control measures are to be detailed in the *site management plan* which must be submitted to the Principal Certifying Authority and Council prior to the commencement of any site works. The sediment and erosion control measures must be implemented prior to the commencement of any site works and be maintained throughout construction. A copy of the plan is to be maintained on-site and be made available to Council officers upon request.

- f) 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 (having a minimum height of 1.5m) 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 necessary, an overhead (B Class type) hoarding may be required to protect the public or occupants of the adjoining premises from falling articles or materials.

*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*

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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.

- g) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
- h) A Road / Asset Opening application must be submitted to and be approved by 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.

All works within or upon the road reserve, footpath, nature strip or other public place are to be completed to the satisfaction of Council, prior to the issuing of an occupation certificate for the development. For further information, please contact Council's Road / Asset Opening Officer on 9399 0691 or 9399 0999.

### **Sediment & Erosion Control**

- 26. Sediment and erosion control measures, must be implemented throughout the site works in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom, to Council's satisfaction. Details are to be included in the *Construction Site Management Plan*.

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

- 27. In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 E of the *Environmental Planning & Assessment Regulation 2000*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.
- 28. All excavations and backfilling associated with the erection or demolition of a building must be executed safely in accordance with appropriate professional standards and excavations must be properly guarded and supported to prevent them from being dangerous to life, property or buildings.

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

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

- 29. Prior to undertaking any demolition, excavation or building work in the following circumstances, a report must be obtained from a *professional engineer* which details the methods of support for the dwelling or associated structure on the adjoining land, to the satisfaction of the *Principal Certifying Authority*:
  - when undertaking excavation or building work within the zone of influence of the footings of a dwelling or associated structure that is located on the adjoining land;
  - when undertaking demolition work to a wall of a dwelling that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling);
  - when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land;
  - as may be required by the *Principal Certifying Authority*.

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The demolition, excavation and building work and the provision of support to the dwelling or associated structure on the adjoining land, must also be carried out in accordance with the abovementioned report, to the satisfaction of the *Principal Certifying Authority*.

#### **Building Encroachments**

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

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

31. 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.

The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a final occupation certificate for the development.

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

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

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

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

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

#### **Occupation Certificate Requirements**

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

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

#### **BASIX Requirements**

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

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

#### **Occupation Certificate Requirements**

34. 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

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(including alterations, additions and 'fit-out' work to existing buildings), in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979*.

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

#### **Fire Safety Certificate Requirements**

35. 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.

#### **Noise Emissions - Certification**

36. Where plant and equipment is installed in the premises (e.g. air-conditioners, mechanical ventilation/exhaust systems or refrigeration motors etc), a written report or statement must be obtained from a suitably qualified and experienced consultant in Acoustics.

The report/statement must demonstrate and confirm that noise and vibration from the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Office of Environment & Heritage/Environment Protection Authority Noise Control Manual & Industrial Noise Policy, Council's conditions of consent (including any relevant approved acoustic report and recommendations), to the satisfaction of Council. The assessment and report must include all relevant fixed and operational noise sources and a copy of the report/statement must be provided to Council prior to the issue of an Occupation Certificate.

37. Places of Shared Accommodation must comply with the *Local Government (General) Regulation 2005* and the premises must be registered with the Council, and the approved registration/inspection fee is to be forwarded to Council **prior to issuing an occupation certificate**.

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

38. The owner/developer must meet the full cost for Council or a Council approved contractor to:
- a) Remove the redundant concrete vehicular layback on Barker Street and carry out repairs to footpath as required to Council's specifications and requirements.
39. 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.
40. 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.

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- b) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a *Civil 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.

### **Sydney Water Requirements**

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

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

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

### **Waste Management**

42. The waste storage area must large enough to accommodate a total of 6 x 240 litre bins (comprising 3 garbage bins & 3 recycle bins) with adequate provisions for access to all bins.
43. Prior to the occupation of the development, the owner or applicant is required to contact Council's City Services department, to make the necessary arrangements for the provision of waste services for the premises.

### **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.

44. The car spaces within the development are for the exclusive use of the occupants of the building. The car spaces must not be leased to any person/company that is not an occupant of the building.

### **External Lighting**

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

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**Fire Safety Statements**

46. 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.

**Environmental Amenity**

47. The use and operation of the premises shall not give rise to an environmental health or public nuisance, cause a vibration nuisance or, result in an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.
48. The proposed use and operation of the premises (including all plant and equipment) must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and *Regulations*.

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

**Waste Management**

49. 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.

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 and details of the proposed waste collection and disposal service are to be submitted to the Principal Certifying Authority and Council prior to commencing operation of the business.

The operator of the business must also arrange for the recycling of appropriate materials and make the necessary arrangements with an authorised waste services contractor accordingly.

**Flood Safety**

50. All future occupiers of the premises must be informed that the property lies within a flood zone and are to be kept fully updated on evacuation procedures in case of a major flooding event.

**Residential Parking Permits**

51. All prospective tenants of the building must be notified that Council will not issue any residential parking permits to occupants of this development.

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52. A notice shall be placed in the foyer/common areas of the building advising occupiers that they are in a building which does not qualify for on-street resident parking permits.

#### **Air Conditioners**

53. Air conditioning plant and equipment shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:

- before 8.00am or after 10.00pm on any Saturday, Sunday or public holiday; or
- before 7.00am or after 10.00pm on any other day.

#### **Rainwater Tanks**

54. The operation of plant and equipment associated with rainwater tanks are to be restricted to the following hours if the noise emitted can be heard within a habitable room in any other residential premises:

- before 8.00am or after 8.00pm on weekends or public holiday; or
- before 7.00am or after 8.00pm on weekdays.

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

In this regard, the operation of the 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 Department of Environment & Climate Change Noise Control Guidelines.

56. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises.

57. Outdoor and indoor communal area use is permitted between :

Monday through to Sunday, from: 7.00am to 10.00pm only.

Excluding ancillary egress or ingress to parking.

58. Any air conditioning plant for the boarding house and equipment must not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:

- Before 8.00am or after 10.00pm on any Saturday, Sunday or public holiday; or
- Before 7.00am or after 10.00pm on any other day.

Installation of air-conditioning units must comply with the State Environmental Planning Policy – Exempt and Complying Development Codes 2008. Otherwise separate development consent must be obtained.

59. A report prepared by a suitably qualified and experienced consultant in acoustics shall be submitted to Council 1 **month after commencement of use**, and from time to time as reasonably requested by Council which demonstrates that noise and vibration emissions from the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, Environmental Protection Authority Noise Control Manual & Industrial Noise Policy, relevant conditions of consent (including any relevant approved acoustic report and recommendations). The assessment and report must include all relevant fixed and operational noise sources.

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60. The maximum permitted number of lodgers is 9 persons.
61. The plan of management submitted with titled Plan of Management 89 & 89A Mooramie Avenue Kensington Boarding House Plan of Management ref: 9840a shall be implemented at all times.
62. All recommendations contained in acoustic report titled "89-89A Mooramie Avenue Kensington Environmental Noise Impact Assessment dated 15<sup>th</sup> June 2015 ref no: 20150452.1/1506A/RO/BW shall be incorporated into the design and construction of the building. Details of compliance shall be provided in the construction certificate plans submitted to the certifying authority.
63. There shall be a nominated person (manager) responsible for the management of the boarding house and that person must be a responsible person over the age of 18 years.
64. The manager shall ensure that a notice is placed near the entrance to the property in a visible position to the public advising of the manager's name and after hours contact number.
65. Each occupant shall be furnished with a set of house rules (i.e. the Plan of Management) and that no variation shall be permitted without the further approval of Council.
66. The manager shall maintain a record of all residents with details of their names, length of stay & number of persons in each room. This information shall be stored for a minimum of 12 months on site and made available to Council Officers upon request.
67. All residents in the boarding house accommodation are to sign a lease or licence agreeing to comply with the Plan of Management (PoM) for the boarding house, with the length of the lease to be determined by the management.
68. The use and operation of the premises shall not give rise to an environmental health or public nuisance.
69. There are to be no emissions or discharges from the premises which give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.
70. The individual rooms, common areas, shared facilities and yard are to be maintained in a clean and tidy state and individual's rubbish is to be placed in the appropriate receptacles.
71. Adequate provisions are to be made within the premises for the storage, collection and disposal of waste and recyclable materials, to the satisfaction of Council.
72. Places of shared accommodation must comply with the *Local Government (Orders) Regulation 1999* and the premises must be registered with the Council prior to occupation and on an annual basis, and the approved registration/inspection fee is to be forwarded to Council **prior to occupation**.

**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 Council's policies. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

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

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

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

A3 In accordance with the requirements of the *Environmental Planning & Assessment Act 1979*, building works, including associated demolition and excavation works (as applicable) must not be commenced until:

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

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

A5 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au) and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.

A6 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.

A7 The Kensington/Centennial Park Flood Study confirms that the rear of subject site will likely be subject to flooding during major storm events. It is recommended there be no storage of valuable goods within the existing outbuilding unless suitably raised above floor levels.

A8 A Local Approval application must be submitted to and be approved by Council prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:

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

For further information please contact Council on 9399 0944.

A9 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.

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- A10 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:
- the consent of the owners of such adjoining or supported land to trespass or encroach, or
  - an access order under the *Access to Neighbouring Land Act 2000*, or
  - an easement under section 88K of the *Conveyancing Act 1919*, or
  - an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

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

- A11 Smoke alarms are required to be installed in all residential dwellings, in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979* and the Building Code of Australia. Details should be included in the construction certificate application.

- A12 Demolition work and removal of asbestos materials:

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

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

- A14 Building owners and occupiers should consider implementing appropriate measures to prevent children from falling from high-level window openings and balconies (e.g. by installing window locking devices; installing heavy-duty screens to window openings; limiting the dimensions of any openings to 125mm; ensuring balustrades to balconies are at least 1m high and; locating fixtures, fittings and furniture away from high-level windows and balconies).

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

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# Development Application Compliance Report



<b>Folder /DA No:</b>	DA/883/2014/B
<b>PROPERTY:</b>	2 Beach Street, CLOVELLY NSW 2031
<b>Proposal:</b>	Section 96 modification of the approved development by addition of attic to each dwelling containing bedroom and bathroom with alterations to roof design and alterations to driveway gradient. Original Consent: Demolition of an existing dwelling house and construction of a multi unit dwelling housing development comprising of 5 x 2 storey townhouses and basement parking, associated site and landscape works.
<b>Recommendation:</b>	Refusal

## Relevant Environment Planning Instruments:

### 1. SEPPs

#### State Environment Planning Policy (Building Sustainability Index: BASIX) 2004.

The development application is accompanied by a BASIX Certificate. The commitments listed on the BASIX Certificate will be imposed by appropriate standard conditions pursuant to Clause 97A of the Environmental Planning and Assessment Regulation 2000.

#### State Environmental Planning Policy 65 –Design Quality of Residential Apartment Development

The proposal is subject to the provisions of State Environmental Planning Policy No. 65 (SEPP 65) – Design Quality of Residential Flat Buildings. On this basis, Council’s Design Review Panel provided comment on the application.

It was noted that this was a Development Application and the first Panel meeting with the applicant.

#### PANEL COMMENTS

The applicant is seeking consent to modify an already approved building comprising a row of new townhouses. The original application was not reviewed by the Panel as it was deemed not subject to SEPP 65 being a row of 2 storey dwellings, whereas the attic floor makes it 3 storeys (although the Panel notes that the basement is more than 1 metre out of the ground, so technically the proposal was already 3 storeys in height.

The changes include the use of the roof space for use as a bedroom and bathroom, minor internal alterations to make this possible and modifications to the geometry of the driveway. The extent of alterations to the driveway is not clear. It would be preferred if the driveway and basement could be located more to the south to create deep soil for trees along the north boundary. These will have the potential to increase amenity, privacy and environmental performance. A good plant screen would reduce the need for inoperable vertical louvres which will affect the amenity for occupants.

The approved building consists of five north-facing “villa” type townhouses that extend along a 51.215m site.

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The proposed alteration would be seen from the rear of houses in the five properties along the northern boundary of the site, appearing as large dormer windows. These would also be seen obliquely from Beach Street. They would not exceed the 9.5m height limit.

Within the proposed building, ceiling heights on the floor below would be reduced in the bathroom and part of the bedroom, and care needs to be taken to avoid clumsy and intrusive bulkheads.

The proposed attic windows could result in some loss of privacy in the rear gardens of the properties to the north, although this would be slight and in the opinion of the Panel acceptable.

External sun-blinds should be provided on these north facing windows.

Window operation needs to be clearly marked on the elevations. It would be important that the dormer windows are operable.

The stairs from the basement will need a door and landing.

The planning of the ground floor kitchens, laundry and powder room loses useful space to circulation. Options should be explored to better use the available floor area.

The proposed skylights will cause heat build up to the attic space. The roof angle could be changed so that clerestory (dormer) windows are possible on the north as well as south and the skylights in line with the roof could be deleted.

Ceiling fans should be provided in all bedrooms and clearly marked on the plans.

The east facade design does not allow for any engagement with the street and should be reconsidered.

Elevations should be provided with and without the fences.

The proposal has the public benefit of increasing density and would have acceptable externalities.

## **Conclusion**

In the opinion of the Panel, if the items listed in this report are satisfactorily resolved with Council there are no SEPP 65 reasons why it should not be approved.

## **2. Randwick LEP 2012**

The subject site is zoned Medium density residential (R3) under the Randwick LEP 2012. The proposed section 96 application to an existing approved residential flat building 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 provides 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.

The amended scheme has not been designed to recognise the desirable elements of the existing streetscape and built form and has not been designed to minimise impacts of neighbouring residents.

**Clause 4.3 & Clause 4.4 – Building Height & F.S.R**

The following compliance table details compliance with Clause 4.3 – Height of Buildings and Clause 4.4 – Floor Space Ratio:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	0.75:1	0.88:1	No
Height of Building (Maximum)	9.5m	9.85m	No

**3. Randwick Comprehensive DCP**

**3.2 C2 Table: Medium Density Residential**

**Randwick Development Control Plan**

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

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

<b>C2</b>	<b>Medium Density Residential</b>		
<b>3</b>	<b>Building Envelope</b>		
<b>3.1</b>	<b>Floor space ratio</b>		
	The maximum permissible F.S.R on site is 0.75:1.	0.88:1	Does not comply, see discussion in key issues section of report
<b>3.2</b>	<b>Building height</b>		
	The maximum permissible building height on site is 9.5m.	9.85m	Does not comply, see discussion in key issues section of report
<b>4</b>	<b>Building Design</b>		
<b>4.2</b>	<b>Roof design</b>		
	(i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three dimensional form (size and scale) and façade composition of the building. (ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access. (iii) Use a similar roof pitch to adjacent buildings, particularly	The subject section 96 application which proposes 5 large dormer windows along the northern edge of the development results in additional visual massing when viewing the development from the neighbouring properties to the north. It is considered	Does not comply, see discussion in key issues section of report

	<p>if there is consistency of roof forms across the streetscape.</p> <p>(iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms.</p>	<p>that the proposed dormer windows results in a development that is visually bulky and adversely affects the amenity of the surrounding properties.</p>	
<b>4.3</b>	<b>Habitable roof space</b>		
	<p>Habitable roof space may be considered, provided it meets the following:</p> <ul style="list-style-type: none"> <li>- Optimises dwelling mix and layout, and assists to achieve dual aspect or cross over units with good natural ventilation.</li> <li>- Has a maximum floor space of 65% of the storey immediately below.</li> <li>- Wholly contain habitable areas within the roof space.</li> <li>- When viewed from the surrounding public and private domain, the roof form has the appearance of a roof. A continuous flat roof with habitable space within it will not satisfy this requirement.</li> <li>- Design windows to habitable roof space as an integrated element of the roof.</li> <li>- Submit computer generated perspectives or photomontages showing the front and rear elevations of the development.</li> </ul>	<p>The proposed habitable roof space which is created by the proposed dormer windows complies with the maximum 65% floor space requirements however it is the proposed habitable roof space which directly results in a non-compliance with the F.S.R and Building Height Controls.</p> <p>The habitable roof space provides fixed windows on the northern elevation and vented skylights, they have not been provided with sufficient natural ventilation as they rely wholly on the skylights for ventilation.</p>	<p>Does not comply, see discussion in key issues section of report</p>
<b>4.4</b>	<b>External wall height and ceiling height</b>		
	<p>(ii) Where the site is subject to a 9.5m building height limit under the LEP, a maximum external wall height of 8m applies.</p>	<p>The proposed dormer windows protrude more than 2m from the roof pane and as such are included in the external wall height calculations.</p> <p>The maximum external wall height is 9.5m</p>	<p>Does not comply, see discussion in key issues section of report</p>
	<p>(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.</p>	<p>The proposed ceiling heights are below the 2.7m required.</p>	<p>See ADG assessment</p>
<b>4.7</b>	<b>Apartment layout</b>		
	<p>(i) Maximise opportunities for natural lighting and ventilation through the following measures:</p>	<p>The proposal provides a ventilated skylight to the bathrooms at</p>	<p>Does not comply, see discussion in key issues</p>

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	<ul style="list-style-type: none"> <li>- Providing corner, cross-over, cross-through and double-height maisonette / loft apartments.</li> <li>- Limiting the depth of single aspect apartments to a maximum of 6m.</li> <li>- Providing windows or skylights to kitchen, bathroom and laundry areas where possible.</li> </ul> <p>Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.</p>	attic level; however do not provide any operable windows (excluding skylights) to the bedrooms at attic level.	section of report
<b>5</b>	<b>Amenity</b>		
<b>5.1</b>	<b>Solar access and overshadowing</b>		
	<b>Solar access for proposed development</b>		
	(i) Dwellings must receive a minimum of 3 hours sunlight in living areas and to at least 50% of the private open space between 8am and 4pm on 21 June.	The proposal complies	complies
	(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.	The proposal complies	No Change from Approved
	<b>Solar access for surrounding development</b>		
	<ul style="list-style-type: none"> <li>(i) Living areas of neighbouring dwellings must receive a minimum of 3 hours access to direct sunlight to a part of a window between 8am and 4pm on 21 June.</li> <li>(ii) At least 50% of the landscaped areas of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight to a part of a window between 8am and 4pm on 21 June.</li> <li>(iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.</li> </ul>	The proposed dormer windows have been positioned on the northern side of the development and will result in a minimal increase in overshadowing. This increase occurs before 10am and after 2pm. The proposal will maintain compliance with the required 3 hours of direct sunlight as per the original approval.	complies
<b>5.2</b>	<b>Natural ventilation and energy efficiency</b>		
	(i) Provide daylight to internalised areas within each dwelling and	The attic areas have been provided with	Complies

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	any poorly lit habitable rooms via measures such as ventilated skylights, clerestory windows, fanlights above doorways and highlight windows in internal partition walls.	north facing windows and two skylights allowing for internalised daylight.	
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.	Sun shading devices are not provided; this could be conditioned however the proposal is recommended for refusal.	Could be conditioned however the proposal is recommended for refusal.
	(iii) All habitable rooms must incorporate windows opening to outdoor areas. The sole reliance on skylight or clerestory windows for natural lighting and ventilation is not acceptable.	The proposed bedrooms are not provided with operable windows, and will rely wholly on ventilated skylights for ventilation.	Does not comply, see discussion in key issues section of report
	(iv) All new residential units must be designed to provide natural ventilation to all habitable rooms. Mechanical ventilation must not be the sole means of ventilation to habitable rooms.	The proposed bedrooms are not provided with operable windows, and will rely wholly on ventilated skylights for ventilation.	Does not comply, see discussion in key issues section of report
<b>5.3</b>	<b>Visual privacy</b>		
	<p>(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings.</p> <p>(v) Incorporate materials and design of privacy screens including:</p> <ul style="list-style-type: none"> <li>- Translucent glazing</li> <li>- Fixed timber or metal slats</li> <li>- Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings</li> <li>- Screen planting and planter boxes as a supplementary device for reinforcing privacy protection</li> </ul>	The proposed dormer windows to the northern elevation will have the potential to overlook the rear POS areas of properties located along Burnie Street. Conditioning privacy measures on these windows may result in further impacts on the internal amenity of the attic areas.	Does not comply, see discussion in key issues section of report

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**3.1 Apartment Design Guide**

SEPP No. 65 aims to promote quality design of Residential Flat Buildings. The proposal is subject to the policy as it involves the development of a residential flat building being 3 storeys and more in height. The proposal has been considered by Council’s Design Review Panel. The Panel’s comments are included in Section 7. An assessment has been carried out in accordance with Part 3: Siting the Development and Part 4: Designing the Building of the Apartment Design Guide against the design criteria requirements. Any non-compliance to the design criteria includes a merits based assessment as per the design guidance of the Apartment Design Guide.

Clause	Requirement	Proposal	Compliance												
<b>Part 3: Siting the Development</b>															
<b>Part 4: Designing the Building</b>															
4C	<p>Ceiling Heights</p> <p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1"> <tr> <td colspan="2">Minimum Ceiling height for apartment and mixed use buildings</td> </tr> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>For 2 storey apartments</td> <td>2.7m for main living area floor; 2.4m for second floor where its area does not exceed 50% of the apartment area</td> </tr> <tr> <td>Attic spaces</td> <td>1.8m at edge of room with a 30 degree minimum ceiling slope</td> </tr> <tr> <td>If located in mixed used areas</td> <td>3.3m for ground and first floor to promote future flexibility of use.</td> </tr> </table> <p>These minimums do not preclude higher ceilings if desired.</p>	Minimum Ceiling height for apartment and mixed use buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor; 2.4m for second floor where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use.	<p>The subject section 96 application for an attic level does not comply with the ADG requirements. The attic level has a minimum ceiling height of 1.8m and a maximum ceiling height of 2.8m. However the proposed attic level does not have a minimum 30 degree ceiling slope as prescribed in the ADG. The proposal provides an approximate 16 degree ceiling slope. It is considered that the lack of floor to ceiling height within the development detrimentally impacts the amenity of the attic spaces habitable and non-habitable rooms.</p>	<p>Does not comply, see discussion in key issues section of report</p>
Minimum Ceiling height for apartment and mixed use buildings															
Habitable rooms	2.7m														
Non-habitable	2.4m														
For 2 storey apartments	2.7m for main living area floor; 2.4m for second floor where its area does not exceed 50% of the apartment area														
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope														
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use.														

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**4. 79C Matters for consideration**

Section 79C 'Matters for Consideration'	Comments
<b>Environmental Planning Instruments</b>	
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	<p>The objectives for development within the zone in which the development is proposed to be carried out (Zone R3 – medium Density Residential) are:</p> <ul style="list-style-type: none"> <li>• To provide for the housing needs of the community within a medium density residential environment.</li> <li>• To provide a variety of housing types within a medium density residential environment.</li> <li>• To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character</li> </ul>

Section 79C 'Matters for Consideration'	Comments
<b>Environmental Planning Instruments</b>	
	<p>of the area.</p> <ul style="list-style-type: none"> <li>• To protect the amenity of residents.</li> <li>• To encourage housing affordability.</li> </ul> <p>The proposed amended development is permissible within the R3 Medium Density Residential zone of RLEP 2012. It is considered that the proposed development is inconsistent with the objectives because it is unsympathetic to the existing built environment and will result in unacceptable impacts on the amenity of residents.</p> <p>The proposed built form does not maintain the desirable attributes of the existing and desired future character of the residential area when viewed from the streetscape.</p> <p>The development is not considered to be in the public interest because it is inconsistent with the objectives of the standard and the relevant objectives for development within Zone R3 – Medium Density Residential.</p>
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	None applicable
Section 79C(1)(a)(iii) – Provisions of any development control plan	See table and key issues section of report.
Section 79C(1)(a)(iiiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 79C(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 79C(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	See Executive summary report.
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 permissible uses; however the proposed development does not recognise the desirable elements of the existing streetscape and built form and will result in adverse impacts on the amenity of residents, as such the site is not considered to be suitable for the proposed development.
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A	The issues raised in the submissions have been addressed in this report.

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Section 79C 'Matters for Consideration'	Comments
<b>Environmental Planning Instruments</b>	
Regulation	
Section 79C(1)(e) – The public interest	The proposal does not promote the objectives of the zone and will result in significant adverse impacts on the locality. Accordingly, the proposal is not considered to be in the public interest.

**5. Section 96 Amendment**

Section 96(2) of the Environmental Planning and Assessment Act, 1979 states that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) *"it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) *it has notified the application in accordance with:*
  - (i) *the regulations, if the regulations so require, or*
  - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be."*

The proposal does not involve a change to the categorisation of the development as approved and it is considered that the proposed would result in a development that would remain substantially the same as the development for which the consent was originally granted.

**6. Referral Comments**

The proposal was referred to Council’s Development Engineer, the following comments were made:

**6.1 Development Engineer**

An application has been received to modify development consent for construction of new multi-unit housing at the above site.

The modifications to the development consent relate to the addition of an attic to each dwelling containing a bedroom and bathroom as well as amendments to internal driveway gradients and levels.

This report is based on the following plans and documentation:

- Architectural Plans, dwg 2014-041-A01 – A13, issue S96-2, dated Aug 2015, by Brenchley Architects;
- Statement of Environmental Effects by Brenchley Architects, dated September 2015;

The Planning Officer is advised that Council's DCP-Parking does not require any additional off-street parking for the increase from 3 bedroom units to 4 bedroom units and the 2 off-street car spaces per unit is considered satisfactory.

The original submitted plans showed no visitor parking however each of the townhouses had been provided with 2 off-street car spaces which is considered acceptable. Development Engineering considers the above still acceptable.

**Should the application be approved the Planning Officer is advised of the following:**

**Condition No 18** of the DA Consent can be deleted as the driveway opening has been relocated. Condition No 18 reads as follows:

18. *Should the applicant maintain the location of the driveway opening as per the original submitted plans then the plans submitted for the Construction Certificate are to show the relocation of the power pole to the south and clear of the driveway opening at the site frontage.*

**Condition No 54** of the DA Consent can be amended as the driveway opening has been relocated. Condition No 54 currently reads as follows:

54. The applicant/owner is to meet all costs associated with the relocation of the existing power pole to the south, clear of the driveway opening at the site frontage. The applicant/owner is to liaise with Ausgrid as early as possible to program the work.

Note: The applicant must also meet the full cost for Ausgrid to relocate the existing overhead power feed from the distribution pole in the street to the development site via an underground UGOH connection.

**Condition No 54 is to be amended to read as follows:**

54. The applicant must also meet the full cost for Ausgrid to relocate the existing overhead power feed from the distribution pole in the street to the development site via an underground UGOH connection.

**7. Recommendation**

- A. That Council, as the consent authority, refuses development consent under Section 96 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/883/2014/B by way of addition of an attic to each dwelling containing a bedroom and a bathroom with alterations to the roof design and alterations to the driveway gradient, at No. 2 Beach Street, Clovelly for the following reasons:

1. The proposal does not satisfy the objectives of the R3 Medium Density zone related to recognising the desirable elements of the existing streetscape and built form, contributing to the desired future character of the area, and protecting the amenity of surrounding residents, which are specified in the Randwick Local Environmental Plan 2012.
2. The proposal exceeds the maximum building height of 9.5m specified in Clause 4.3 of Randwick Local Environmental Plan 2012 and the resultant built form will be of a size and scale that is incompatible with the desired future character of the locality and

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- adversely impacts the amenity of adjoining residents in terms of visual bulk and loss of privacy.
3. The proposal exceeds the maximum F.S.R of 0.75:1 specified in Clause 4.4 of Randwick Local Environmental Plan 2012 and the resultant built form will be of a size and scale that is incompatible with the desired future character of the locality and adversely impacts the amenity of adjoining residents in terms of visual bulk and loss of privacy.
  4. The proposal does not satisfy the relevant controls and objectives in relation to roof design contained within Randwick DCP 2013 Part C2, Clause 4.2.
  5. The proposal does not satisfy the relevant controls and objectives in relation to habitable roof space contained within Randwick DCP 2013 Part C2, Clause 4.3.
  6. The proposal does not satisfy the relevant controls and objectives in relation to external wall height contained within Randwick DCP 2013 Part C2, Clause 4.4.
  7. The proposal does not satisfy the relevant controls and objectives in relation to apartment layout contained within Randwick DCP 2013 Part C2, Clause 4.7.
  8. The proposal does not satisfy the relevant controls and objectives in relation to natural ventilation and energy efficiency contained within Randwick DCP 2013 Part C2, Clause 5.2.
  9. The proposal does not satisfy the relevant controls and objectives in relation to Visual Privacy contained within Randwick DCP 2013 Part C2, Clause 5.3.
  10. The proposal does not satisfy the relevant heads of consideration specified in Schedule 1 of State Environmental Planning Policy No 65 –Design Quality of Residential Flat Buildings.
  11. The proposal does not satisfy the design criteria and design guidance set-out in Part 4C Ceiling Heights of the Apartment Design Guide as per SEPP 65.
  12. The proposal fails to satisfy the relevant considerations under Section 79C(1) (b),(c) and (e) Environmental Planning and Assessment Act 1979 for natural and built environmental impacts, suitability of the site, and the public interest.

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