

THESE MINUTES ARE DRAFT UNTIL CONFIRMED AT THE NEXT MEETING OF THIS COUNCIL AND/OR COMMITTEE

MINUTES OF PLANNING COMMITTEE MEETING OF THE COUNCIL OF THE CITY OF RANDWICK HELD ON TUESDAY, 12 APRIL 2016 AT 6:15PM

Present:

The Mayor, Councillor N D'Souza (South Ward)

- | | |
|--------------|---|
| North Ward | - Councillors K Neilson & K Smith |
| South Ward | - Councillors R Belleli & P Garcia (arrived 7.50pm) |
| East Ward | - Councillors T Bowen, M Matson & B Roberts (Deputy Chairperson) (arrived 6.29pm) |
| West Ward | - Councillor H Stavrinou (Chairperson) |
| Central Ward | - Councillors A Andrews (arrived 6.24pm), & G Stevenson |

Officers present:

General Manager	Mr R Brownlee
Director City Services	Mr J Frangoplos
Acting Director City Planning	Mr K Kyriacou
Director Governance & Financial Services	Mr J Smith
Manager Strategic Planning	Mr A Bright
Manager Health, Building & Regulatory Services	Mr R Wereszczynski
Senior Administrative Coordinator	Ms J Hartshorn
Communications Manager	Mr J Hay
Executive Manager	Mr L Fitzgerald

The Meeting was adjourned at 6.15pm and was resumed at 6.17pm.

Apologies/Granting of Leave of Absences

Apologies were received from Crs Shurey, Moore, Nash and Seng.

RESOLVED: (Matson/Neilson) that the apologies received from Crs Shurey, Moore, Nash and Seng be accepted and leave of absences from the meeting be granted.

Confirmation of the Minutes

CONFIRMATION OF THE MINUTES OF THE PLANNING COMMITTEE MEETING HELD ON TUESDAY 8 MARCH 2016

PL34/16

RESOLUTION: (Matson/Smith) that the Minutes of the Planning Committee Meeting held on Tuesday 8 March 2016 (copies of which were circulated to all Councillors) be and are hereby confirmed as a correct record of the proceedings of that meeting.

Declarations of Pecuniary and Non-Pecuniary Interests

- a) Cr Neilson declared a non-significant non pecuniary interest in Item D31/16 as the objector is known to her.
- b) Cr Neilson declared a non-significant non pecuniary interest in Item D32/16 as some of the objectors are known to her.
- c) Cr Stavrinou declared a non-significant non pecuniary interest in Item D32/16 as some of the objectors are known to him.
- d) Cr Stavrinou declared a non-significant non pecuniary interest in Item D34/16 as the speaker (representing the objectors) is known to him as a former member of the Liberal Party.
- e) Cr Belleli declared a non-significant non pecuniary interest in Item D34/16 as the speaker (representing the objectors) is known to him as a former member of the Liberal Party.
- f) Cr Smith declared a non-significant non pecuniary interest in Item D34/16 as the speaker (representing the objectors) is known to him as a former member of the Liberal Party.
- g) Cr Garcia declared a pecuniary interest in Item M2/16 as his parents live in the street. Cr Garcia indicated that he would not take part in the debate or the vote on the matter.
- h) Cr Andrews declared a non-significant non pecuniary interest in Item D27/16 as he is aware of the applicant and objector.
- i) Cr Andrews declared a non-significant non pecuniary interest in Item D32/16 as he knows some of the objectors.
- j) Cr Roberts declared a non-significant non pecuniary interest in Item D34/16 as the speaker (representing the objectors) is known to him as a former member of the Liberal Party.

Address of Council by Members of the Public

Prior to consideration of the Agenda by the Committee, deputations were received in respect of the following matters:

D27/16 15A & 15B HIGGS STREET, COOGEE (DA/658/2015)

Applicant Tamar Altbeker

D31/16 31 PITT STREET, RANDWICK (DA/373/2015/A)

Objector Terry Fletcher

Applicant Anthony Betros (representing the applicant)

D32/16 89-89A MOORAMIE AVENUE, KENSINGTON (DA/484/2015)

Objector Mariam Houseman (representing the objectors)

	Applicant	Stuart Harding (representing the applicant)
D34/16		2 BEACH STREET, CLOVELLY (DA/883/2014/B)
	Objector	Anthony Boskovitz (representing the objectors)
M2/16		NEWMARKET DRAFT DEVELOPMENT CONTROL PLAN- POST EXHIBITION - OPEN SPACE AND AFFORDABLE HOUSING PROVISIONS
	Against	Jane Hewitt - Cbus
	For	Lynda Monteiro-Wallace

The Meeting was adjourned at 7.11pm and was resumed at 7.50pm.

Urgent Business

Nil.

Development Application Reports

D27/16 Development Application Report - 15A & 15B Higgs Street, Coogee (DA/658/2015)

PL35/16

RESOLUTION: (Smith/Andrews) that Council, as the consent authority, grants development consent under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/658/2015 for Alterations and additions to existing semi-detached dwellings including ground and first floor additions and new pergola to 15A Higgs Street, first floor alterations and additions to 15B Higgs Street, at No. 15A and 15B Higgs Street, Coogee NSW 2034, subject to the following non standard conditions and the standard conditions contained in the development application compliance report attached to this report:

Non-standard conditions

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. The location of air conditioning units must satisfy the relevant criteria under the State Environmental Planning Policy - Exempt and Complying Development Codes 2008.
 - b. The pergola located over the terrace at the front shall be deleted from the application.

MOTION: (Smith/Andrews) CARRIED UNANIMOUSLY - SEE RESOLUTION.

D28/16 Development Application Report - 1-1A Chapman Avenue, Maroubra (DA/925/2015)

PL36/16

RESOLUTION: (Andrews/Roberts) that Council, as the consent authority, grants development consent under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 925/2015 for alterations and additions to the existing attached dual occupancy, at No. 1-1a Chpman Avenue, Maroubra, subject to the following standard conditions contained in the development application compliance report.

MOTION: (Andrews/Roberts) CARRIED UNANIMOUSLY - SEE RESOLUTION.

**D29/16 Development Application Report - 697-699 Anzac Parade,
Maroubra (DA/107/2013/A)**

PL37/16

RESOLUTION: (Andrews/Roberts) that Council, as the consent authority, grants development consent under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/107/2013 for modifications of the approved development by increasing the western setback to 3 metres on levels 1 & 2, reduction in the overall height of the building by 600mm, reduction in the floor space ratio and deletion of apartment no. 605 and various amendments to address the requirements of the conditions of consent., at No. 697-699 Anzac Parade, MAROUBRA, subject to the following conditions:

A. Amend Condition No. 1 to read as follows:

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated	Received by Council
DA2.08 - Section DD - Amended	Fox Johnston	20 August 2013	23 Sept 2013
DA2.07 - Section CC - Amended			
DA2.06 - Section BB - Amended			
DA2.05 - Section AA - Amended			
DA2.01 – North Elevation - Amended			
DA2.02 – East Elevation - Amended			
DA2.03 – South Elevation - Amended			
DA2.04 – West Elevation - Amended			
DA1.12 - Roof Plan - Amended			
DA1.10 - Level 6 Plan - Amended			
DA1.09 - Level 5 Plan - Amended			
DA1.08 - Level 4 Plan - Amended			
DA1.07 - Level 3 Plan - Amended			
DA1.06 - Level 2 Plan - Amended			
DA1.05 - Level 1 Plan - Amended			
DA1.04 - Ground Floor Plan - Amended			
DA1.03 - Basement 1 - Amended			
DA1.02 - Basement 2 - Amended			
DA1.01- Basement 3 - Amended -			
DA3.01- Façade Section - Amended -			
DA 4.04 – Shadow Diagrams Elevation - Amended -			
DA 4.05- Shadow Diagrams Elevation - Amended -			
SDoc - DA0.02 - Site Plan - Amended			

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

attached plans:

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
DA00.02 – Site Plan (Revision B)	Fox Johnson	2 December 2015	11 December 2015
DA01.04 – Ground Floor Plan (Revision D)	Fox Johnson	2 December 2015	11 December 2015
DA01.05 – Level 1 Plan (Revision E)	Fox Johnson	2 March 2016	2 March 2016
DA01.06 – Level 2 Plan (Revision E)	Fox Johnson	2 March 2016	2 March 2016
DA01.07 – Level 3 Plan (Revision D)	Fox Johnson	2 December 2015	11 December 2015
DA01.08 – Level 4 Plan (Revision D)	Fox Johnson	2 December 2015	11 December 2015
DA01.09 – Level 5 Plan (Revision D)	Fox Johnson	2 December 2015	11 December 2015
DA01.10 – Level 6 Plan (Revision E)	Fox Johnson	2 March 2016	2 March 2016
DA01.12 – Roof Plan (Revision D)	Fox Johnson	2 March 2016	2 March 2016
DA02.01 - North Elevation (Revision D)	Fox Johnson	2 March 2016	2 March 2016
DA02.02 – East Elevation (Revision D)	Fox Johnson	2 March 2016	2 March 2016
DA02.03 – South Elevation (Revision D)	Fox Johnson	2 March 2016	2 March 2016
DA02.04 – West Elevation (Revision D)	Fox Johnson	2 March 2016	2 March 2016
DA02.05 – Section AA Elevation (Revision D)	Fox Johnson	2 March 2016	2 March 2016
DA02.06 – Section BB Elevation (Revision C)	Fox Johnson	2 March 2016	2 March 2016
DA02.07 – Section CC Elevation (Revision C)	Fox Johnson	2 March 2016	2 March 2016
DA02.08 – Section DD Elevation (Revision C)	Fox Johnson	2 March 2016	2 March 2016

B. Delete Condition Nos. 2(a), 2(b), 2(c), 2(d) and 2(e)

MOTION: (Andrews/Roberts) CARRIED UNANIMOUSLY - SEE RESOLUTION.

D30/16 Development Application Report - 14 Beach Street, Clovelly (DA/49/2016)

PL38/16

RESOLUTION: (Andrews/Roberts) that Council, as the consent authority, grants development consent under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 49/2016 for construction of carport structure to rear of existing residential flat building, at No. 14 Beach street, Clovelly, subject to the standard conditions contained in the development application compliance report.

MOTION: (Andrews/Roberts) CARRIED UNANIMOUSLY - SEE RESOLUTION.

**D31/16 Development Application Report - 31 Pitt Street, Randwick
(DA/373/2015/A)**

PL39/16

RESOLUTION: (Matson/Bowen) that Council, as the consent authority, refuse its consent under Section 96 of the Environmental Planning and Assessment Act 1979 as amended to delete Condition 2(a) of Development Consent No. 373/2015/A in relation to the deletion of rear upper level balcony and reduction in the size of the rear upper level bedroom of a semi-detached dwelling at 31 Pitt Street, Randwick for the following reasons:

1. The proposal fails to satisfy the relevant objectives of R3 – Medium Density zone under Randwick Local Environmental Plan 2012 in relation to the protection of residential amenity.
2. The proposal fails to satisfy the relevant objectives of Building Height under Part C1 of the Randwick Comprehensive Development Control Plan 2013 in that the form and massing of the proposed modification fails to respect the topography of the site.
3. The proposal fails to satisfy the relevant objectives of Building Design under Part C1 of the Randwick Comprehensive Development Control Plan 2013 in that the overall form, scale, massing and proportions of the dwelling do not recognise and adapt to the characteristics of the site in terms of topography, configuration, orientation and surrounding natural and built context.
4. The proposal exceeds the maximum external wall height control under Part C1 of the Randwick Comprehensive Development Control Plan 2013 and will result in unreasonable impacts upon the neighbouring dwellings in terms of visual amenity.

MOTION: (Andrews/Roberts) that Council, as the consent authority, grant its consent under Section 96 of the Environmental Planning and Assessment Act 1979 as amended to delete Condition 2(a) of Development Consent No. 373/2015/A in relation to the deletion of rear upper level balcony and reduction in the size of the rear upper level bedroom of a semi-detached dwelling at 31 Pitt Street, Randwick, subject to the following conditions:

1. Increase in the setback of the rear upper level balcony by 100mm on the southern side boundary.
2. Reduce the height of the privacy screens on the southern and northern sides of the rear upper level balcony from 1.8m to 1.6m.
3. A 1m planter box away from applicant's property. **LOST.**

A **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Andrews	Councillor Belleli
Councillor Roberts	Councillor Bowen
Councillor Smith	Councillor D'Souza
Councillor Stavrinos	Councillor Garcia
	Councillor Matson
	Councillor Neilson
	Councillor Stevenson
Total (4)	Total (7)

MOTION: (Matson/Bowen) CARRIED – SEE RESOLUTION.

A **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Belleli	Councillor Andrews
Councillor Bowen	Councillor Roberts
Councillor D'Souza	Councillor Smith
Councillor Garcia	Councillor Stavrinou
Councillor Matson	
Councillor Neilson	
Councillor Stevenson	
Total (7)	Total (4)

D32/16 Development Application Report - 89-89A Mooramie Avenue, Kensington (DA/484/2015)

PL40/16

RESOLUTION: (Smith/Andrews) that Council, as the consent authority, grants development consent under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/484/2015 to change the use of the existing dual occupancy and outbuilding to a boarding house consisting of 7 rooms (containing 9 lodgers) with associated alterations and additions, including construction of access ramp, bin store area and landscaping, at No. 89-89A Mooramie Avenue, Kensington, subject to the following non standard conditions and the standard conditions contained in the development application compliance report attached to this report:

Non-standard conditions

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.
 - 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. This room shall be used for the purposes of storage.
 - g. The proposed north facing first floor bedroom window to BR4 (W3) shall be deleted from the development.
58. The upper level communal terraces must only be used between the following hours:
- Monday through to Friday, from: 8.00am to 8.00pm
 - Saturdays and Sundays, from: 10.00am to 9.00pm.
60. A report prepared by a suitably qualified and experienced consultant in acoustics shall be submitted to Council 1 month after full occupancy, 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 and 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. The operator must advise Council in writing of the issuing occupation certificate and upon full occupancy.
61. The maximum permitted number of lodgers is 9 persons.

MOTION: (Smith/Andrews) CARRIED UNANIMOUSLY - SEE RESOLUTION.

**D33/16 Development Application Report - 2 Beach Street, Clovelly
(DA/883/2014/A)**

PL41/16

RESOLUTION: (Andrews/Roberts) that Council, as the consent authority, grants development consent under Section 96 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/883/2014/A for alterations to the ground floor layout, reduction of the unit 1 terrace, addition of external stairs, increase size of planter on northern boundary, new plunge pool in north-west corner of site with landscaping and planting, at No. 2 Beach Street Clovelly, in the following manner:

- **Amend Condition No. 1 to read:**
1. The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

Plan	Drawn by	Dated
2014-041-A01 Issue DA-A	Brenchley Architects	May 2015
2014-041-A02 Issue DA-A	Brenchley Architects	May 2015
2014-041-A03 Issue DA-A	Brenchley Architects	May 2015
2014-041-A04 Issue DA-A	Brenchley Architects	May 2015
2014-041-A05 Issue DA-A	Brenchley Architects	May 2015
2014-041-A06 Issue DA-A	Brenchley Architects	May 2015

BASIX Certificate	No.	Dated
	595605M	08 December, 2014

As amended by the Section 96 "A" plans and supporting documentation listed below:

Plan	Drawn by	Dated
2014-041-A06 (Issue S96-1)	Brenchley Architects	August 2015
2014-041-A05 (Issue S96-1)	Brenchley Architects	August 2015
2014-041-A03 (Issue S96-1)	Brenchley Architects	August 2015
2014-041-A01 (Issue S96-1)	Brenchley Architects	August 2015

BASIX Certificate	No.	Dated
	595605M_04	24/09/2015

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

- **Delete condition 2 (a).**
- **Add Condition 89 to read:**

Swimming Pool Safety

89. Swimming pools are to be designed and installed in accordance with the relevant requirements of the *Building Code of Australia* and be provided with childproof fences and self-locking gates, in accordance with the *Swimming Pools Act 1992* and the *Swimming Pools Regulation 2008*.

The swimming pool is to be surrounded by a child-resistant barrier (e.g. fence), that separates the pool from any *residential building* (as defined in the *Swimming Pools Act 1992*) that is situated on the premises and from any place (whether public or private) adjoining the premises; and that is designed, constructed and installed in accordance with Australian Standard AS 1926.1 – 2012 (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools).

Gates to pool area must be self-closing and latching at all times and, the gate is required to open outwards from the pool area and prevent a small child opening the gate or door when the gate or door is closed.

Temporary pool safety fencing is to be provided 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.

A 'warning notice' must be erected in a prominent position in the immediate vicinity of the swimming pool, in accordance with the provisions of the *Swimming Pools Regulation 2008*, detailing pool safety requirements, resuscitation techniques and the importance of the supervision of children at all times.

Note: This development consent does not approve the design and location of swimming pool fencing and other swimming pool safety barriers. Swimming pool fencing and other safety barriers are required to comply with the Swimming Pools Act 1992, Swimming Pools Regulation 2008 and relevant Standards. Details of compliance are required to be incorporated into the plans and specifications for a Construction Certificate, to the satisfaction of the Certifying Authority.

- **Add Condition 90 to read:**

Swimming Pool & Spa Pool Requirements

90. Swimming pools (and spa pools) are to be designed, installed and operated in accordance with the following general requirements:

- a) Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation; and
- b) All pool overflow water is to be drained away from the building and adjoining premises, so as not to result in a nuisance or damage to premises; and
- c) Water recirculation and filtrations systems are required to comply with AS 1926.3 – 2010: Swimming Pool Safety – Water Recirculation and Filtration Systems; and
- d) Pool plant and equipment is to be enclosed in a sound absorbing enclosure or installed within a building, to minimise noise emissions and possible nuisance to nearby residents.

- **Add Condition 91 to read:**

Notification of Swimming Pools & Spa Pools

91. The owner of the premises must 'register' the swimming pool on the NSW Swimming Pool Register, in accordance with the *Swimming Pools Amendment Act 2012*.

The Swimming Pool Register is administered by the NSW Government, Department of Premier & Cabinet, Division of Local Government and registration on the Swimming Pool Register may be made on-line via their website www.swimmingpoolregister.nsw.gov.au.

Registration must be made **prior to the issue of an Occupation Certificate** for the pool and a copy of the NSW Swimming Pool Certificate of Registration must be forwarded to the Principal Certifying Authority and Council accordingly.

- **Add Condition 92 to read:**

Plant & Equipment

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

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

- Add **Condition 93 to read:**

Swimming/Spa Pools

93. 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.

MOTION: (Andrews/Roberts) CARRIED UNANIMOUSLY - SEE RESOLUTION. D34/16 Development Application Report - 2 Beach Street, Clovelly (DA/883/2014/B)

PL42/16

RESOLUTION: (Andrews/Neilson) 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 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.

MOTION: (Andrews/Neilson) CARRIED UNANIMOUSLY - SEE RESOLUTION.

Miscellaneous Reports

M2/16 Miscellaneous Report - Newmarket draft Development Control Plan- Post Exhibition - open space and affordable housing provisions (F2015/00324)

Note: Having previously declared an interest, Cr Garcia left the chamber and took no part in the debate or voting on this matter.

PL43/16 **RESOLUTION: (Matson/Andrews)** that Council:

- a) endorsing interim bridging guidelines, based on the Draft DCP Amendments Randwick Development Control Plan 2013 (DCP) Chapter E5 – *Newmarket Green*, Barker Street Randwick highlighted in red in **Attachment 1**; subject to the existing Control 1 in Section 4.7 of the draft DCP which reads "*provide a minimum of 5% of all residential accommodation on site as affordable housing*" be replaced by the following words:

1. *Having regard to the aims of Randwick LEP 2012 and the requirements of clause 6.12 for larger sites to have a site specific Development Control Plan which provides for, amongst other matters the provision of affordable and adaptable housing.*

The applicant for development on the site shall have regard to the need to provide affordable housing as part of any development proposal. The mechanism to achieve the objectives in relation to the provision of affordable housing for the site shall be through a Voluntary Planning Agreement.

Any bona fide proposal by an applicant for the provision of affordable housing is to be considered including tenure choices. Council considers that a 5% contribution of all residential accommodation on the site is an appropriate level of affordable housing.

It is considered that the proposed changes are not of a significant nature and do not trigger the need for re-exhibition of the draft DCP.

- b) commence drafting an LEP that would reinsert the 5% affordability target as agreed to by the previous owners of the site and seek a gateway determination for this intent;
- c) notify the local Member for Coogee of Council's desire to retain the former affordability options of the Newmarket site and seek his assistance in advancing this with the Minister.

AMENDMENT: (Bowen/Stevenson) that Council call on the Minister to reopen the

rezoning and rezone the area with a car parking ratio for the site that is consistent with those of Randwick City Council's R3 Zone. **LOST.**

A **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Belleli	Councillor Andrews
Councillor Bowen	Councillor D'Souza
Councillor Stevenson	Councillor Matson
	Councillor Neilson
	Councillor Roberts
	Councillor Smith
	Councillor Stavrinou
Total (3)	Total (7)

AMENDMENT: (Neilson/Mayor, Cr N D'Souza) that Council:

- a) Endorse the Draft DCP Amendments Randwick Development Control Plan 2013 (DCP) Chapter E5 – *Newmarket Green*, Barker Street Randwick highlighted in red in **Attachment 1** for finalisation in accordance with the *Environmental Planning and Assessment Act 1979* and *Regulations 2000*, subject to the existing Control 1 in Section 4.7 of the draft DCP which reads "provide a minimum of 5% of all residential accommodation on site as affordable housing" be replaced by the following words:

1. *Having regard to the aims of Randwick LEP 2012 and the requirements of clause 6.12 for larger sites to have a site specific Development Control Plan which provides for, amongst other matters the provision of affordable and adaptable housing.*

The applicant for development on the site shall have regard to the need to provide affordable housing as part of any development proposal. The mechanism to achieve the objectives in relation to the provision of affordable housing for the site shall be through a Voluntary Planning Agreement.

Any bona fide proposal by an applicant for the provision of affordable housing is to be considered including tenure choices. Council considers that a 5% contribution of all residential accommodation on the site is an appropriate level of affordable housing.

It is considered that the proposed changes are not of a significant nature and do not trigger the need for re-exhibition of the draft DCP.

- b) Agree that the Director, City Planning may make minor modifications to rectify any numerical, typographical, interpretation and formatting errors if required, in the finalisation and printing of the Plan. **LOST.**

A **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Belleli	Councillor Andrews
Councillor Bowen	Councillor Matson
Councillor D'Souza	Councillor Roberts
Councillor Neilson	Councillor Smith
Councillor Stevenson	Councillor Stavrinou (+ casting vote)
Total (5)	Total (6)

MOTION: (Matson/Andrews) CARRIED UNANIMOUSLY – SEE RESOLUTION.

Cr Garcia returned to the meeting at this point (8.58pm).

The meeting was adjourned at 9.00pm and was resumed at 9.26pm.

Confidential reports (closed session)

That the meeting move into closed session in order to consider confidential items.

Closed Session

M3/16 Confidential - 1A Mermaid Avenue, Maroubra (F2004/07948)

This matter is considered to be confidential under Section 10A(2) (g) Of the Local Government Act, as it deals with advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

PL44/16

RESOLUTION: (Andrews/Smith) that Council:

- a) advise the owner to submit an application for a *Building Certificate*, for consideration of the as-built dwelling;
- b) issue a \$1,500 Penalty Notice in respect of the unauthorised variations to the complying development certificate;
- c) write to the Minister for Planning & Environment raising concerns about the NSW Codes SEPP and its application in such sensitive locations (in respect of two-storey dwellings/additions) which may unduly impact upon the existing levels of amenity and enjoyment of nearby premises.

AMENDMENT: (Neilson/Matson) that Council;

- a) commence class 4 proceedings in the Land & Environment Court;
- b) write to the Minister for Planning & Environment raising concerns about the NSW Codes SEPP and its application in such sensitive locations (in respect of two-storey dwellings/additions) which may unduly impact upon the existing levels of amenity and enjoyment of nearby premises. **LOST.**

A DIVISION was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Matson	Councillor Andrews
Councillor Neilson	Councillor Belleli
Councillor Stevenson	Councillor D'Souza
	Councillor Garcia
	Councillor Roberts
	Councillor Smith
	Councillor Stavrinou
Total (3)	Total (7)

MOTION: (Andrews/Smith) CARRIED UNANIMOUSLY – SEE RESOLUTION.

Open Session

That the meeting move back into open session.

Notice of Rescission Motions

Nil.

The meeting closed at 9.40pm.

The minutes of this meeting were confirmed at the Planning Committee Meeting of the Council of the City of Randwick held on Tuesday, 10 May 2016.

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CHAIRPERSON