



**Randwick City  
Council**  
a sense of community

## **DA COMPLIANCE REPORTS**

**ORDINARY COUNCIL MEETING  
TUESDAY 13 DECEMBER, 2016**

# TABLE OF CONTENTS

## Director City Planning Report

### 2. CP73/16 35 Lenthall Street, Kensington (DA/352/2016)

Attachment 1: DA Compliance Report - 35 Lenthall Street, Maroubra .....	3
---	---

# Development Application Compliance Report



<b>Folder /DA No:</b>	DA/352/2016
<b>PROPERTY:</b>	35 Lenthall Street, KENSINGTON NSW 2033
<b>Proposal:</b>	Demolition of existing dwelling (Heritage Conservation Area).
<b>Recommendation:</b>	Approval

CP73/16

## Relevant Environment Planning Instruments:

### 1. Randwick LEP 2012

#### Zoning and permissibility

The subject site is zoned **R2 – Low Density Residential** under Randwick LEP 2012 (RLEP).

The proposal development is classified as demolition. Clause 2.7 of the RLEP stipulates that demolition requires development consent unless it is exempt or complying development. The proposed development is in accordance with this clause. Clause 5.10(2) also requires development consent for the demolition of a building within a heritage conservation area.

Demolition is normally exempt development pursuant to Subdivision 13 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, however the subject site is within a Heritage Conservation Area and therefore requires development consent in accordance with Clause 2.7 and 5.10 of the RLEP.

The zone objectives are addressed as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*
- *To protect the amenity of residents.*
- *To encourage housing affordability.*
- *To enable small-scale business uses in existing commercial buildings.*

The proposed development aims to comply the objectives of the zone and any future development (replacement/infill building) will need to satisfy the objectives and controls stipulated in the RLEP 2012.

#### Heritage conservation

Clause 5.10 stipulates development standards and provisions relating to redevelopment of a Heritage Item or development within a Heritage conservation area. The objectives of this clause are;

- *to conserve the environmental heritage of Randwick,*
- *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*

- *to conserve archaeological sites,*
- *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The demolition of the dwelling house is being proposed only due to the structural inadequacy of the building and the existing severe damage and cracking that has occurred to the external and internal walls. The building is in a very poor condition and the nature and extent of the damage is not easily rectifiable as it affects the structural integrity of the building.

Given the circumstances of the case the proposal is still intending to satisfy the objectives of Clause 5.10 and any future development on the site will need to consider and respect the objectives of the zone. Clause 5.10(4) requires the consent authority to consider the effect of the proposed development on the heritage significance on the conservation area. In accordance with Clause 5.10(5) a detailed heritage assessment has been prepared and lodged with the application which justifies the need for the demolition and concludes that there will be no adverse visual or aesthetic impact on the integrity and significance of the heritage conservation area and streetscape.

Given that No.37 Lenthall Street was granted development consent in 1998 to demolish the original dwelling and construct a new dwelling (DA No.316/1998) for similar structural reasons the proposal is not considered to be unreasonable given that a precedent has been established for the property immediately next door and there is sufficient evidence to suggest these properties are in poor structural condition.

The owners of No.35 Lenthall Street bought the property in 1999 and since this time have been consistently repairing the property however the degree of structural damage is so great that it is no longer feasible or financial viable to rehabilitate the building and the only sustainable option is to demolish and rebuild.

### **Flood planning**

The objectives of Clause 6.3 in the RLEP are;

- *to minimise the flood risk to life and property associated with the use of land,*
- *to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
- *to avoid significant adverse impacts on flood behaviour and the environment.*

Although this clause applies to land identified on the flood planning map (the Site is not identified within this map) it also relates to "other land at or below the flood planning level". The Site is located within Kensington which is an area prone to flooding due to the high water table. The Site is located at a localized low point and any new work would need to be raised above the existing flood level identified for the Site. Flood levels are only issued if new development is proposed on site.

Without definitive evidence being provided or available it seems that flooding on site over time is possibly a contributing factor to the damage and instability of the building and its foundations.

## **2. Randwick Comprehensive DCP**

### **2.1 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:** Most of the controls relate to new developments and there are no specific development controls relating to demolition, however the heritage conservation provisions in Part B2 are relevant for the site and are outlined below.

DCP Clause	Controls	Proposal	Compliance
	<b>Classification</b>	Zoning = R2 - Low Density Residential	<b>Yes</b>
<b>2</b>	<b>Site planning</b>		
<b>2.1</b>	<b>Minimum lot size and frontage</b>		
	Minimum lot size (RLEP): • R2 = 400sqm	Existing site area is 887.6sqm	<b>Yes</b>
	<b>Minimum frontage</b>		
	i) Min frontage R2 = 12m ii) No battle-axe or hatchet in R2 or R3	Existing frontage to Lenthall Street = 37.275m  Subdivision is not proposed	<b>Yes</b>
<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	No earthworks, cut or fill is proposed as part of the demolition works.	<b>Yes</b>
<b>5</b>	<b>Amenity</b>		
<b>5.1</b>	<b>Solar access and overshadowing</b>		
	<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.	The demolition of the building will not increase overshadowing to adjoining properties.	<b>Yes</b>

DCP Clause	Controls	Proposal	Compliance
<b>5.3</b>	<b>Visual Privacy</b>		
	<b>Windows</b>		
	i) minimise any direct viewing of 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>	The demolition will not affect or contribute to any additional overlooking to adjoining properties.	<b>Yes</b>
<b>Part B2 – Heritage</b>			
<b>1.9</b>	<b>Demolition</b>		
	<p>Demolition of a heritage item or contributory building in a heritage conservation area is generally not supported, unless there are overriding reasons such as structural damage.</p> <p>The demolition of a non-contributory building and replacement by an appropriately designed infill building is generally supported. In assessing a DA for the demolition of a heritage item or a contributory building, Council will consider:</p> <ul style="list-style-type: none"> <li>• The heritage significance of the item or building</li> <li>• The structural condition</li> <li>• Comparative analysis of all options; and</li> <li>• The contribution the item or building makes to the streetscape. Council may require the submission of a report by a structural engineer with heritage experience to determine whether the building is, or is not, structurally capable of reasonable and economic use.</li> </ul> <p>Applications for demolition of a</p>	<p>The application is supported by an Engineering Report prepared by Lindsay Dynan Consultants which confirms the following;</p> <ul style="list-style-type: none"> <li>▪ The masonry walls throughout the building are severely cracked internally and externally</li> <li>▪ The continual decline of the building is indicative of foundation movement occurring.</li> <li>▪ The large, mature tree to the west of the house may be contributing to the damage.</li> <li>▪ It is expected the tree, the varying water table in the aquifer, and the existing foundations are contributing to the movement and noted distress of the building.</li> </ul>	<b>Yes</b>

DCP Clause	Controls	Proposal	Compliance
	<p>heritage item or buildings in a heritage conservation area are required to provide details on the replacement development.</p>	<p>A Heritage Assessment prepared by Sue Rosen further justifies the demolition of the building is warranted given the circumstances of this particular case.</p> <p>After receiving the application it was discussed with the applicants that a replacement building or at least conceptual infill building design should be prepared and accompany the application however the applicant did not want to go through this additional expense if Council will not support the demolition in the first instance.</p> <p>After discussion with Council's staff it was agreed that a replacement building design is not required as there are sufficient development controls within the RLEP and RDCP to assist with the design for a new development on the site and within the conservation area.</p>	
<b>1.13</b>	<b>Heritage Management Documents</b>		
	<p>A heritage impact assessment is generally required for development relating to a heritage item or property within a heritage conservation area including alterations and additions, demolition or construction of a replacement building.</p> <p>A heritage impact assessment may also be required for development adjacent to or in the vicinity of a heritage item or heritage conservation area.</p>	<p>Sue Rosen from Sue Rosen Associates is a qualified Independent Heritage Consultant and prepared a detailed Heritage Assessment in response to Council's Heritage Advice.</p> <p>Sue's findings are discussed in more detail later in this report however in summary she supports the demolition for the following reasons;</p> <ul style="list-style-type: none"> <li>▪ It is not a listed heritage item.</li> <li>▪ The development will not have a negative impact on the heritage qualities of the conservation area or</li> </ul>	<b>Yes</b>

DCP Clause	Controls	Proposal	Compliance
		nearby heritage items. <ul style="list-style-type: none"> <li>▪ It is in a dangerous physical condition despite efforts by the owners to repair and maintain the building.</li> <li>▪ The building is beyond restoration.</li> <li>▪ The site is flood prone and any addition to the façade would result in an awkward roof pitch that is inconsistent with the character of the conservation area, as is the height of the addition (to the rear) would need to be considerably higher than the existing façade.</li> </ul>	
<b>2.11</b>	<b>Gardens, garden elements and swimming pools</b>		
	To retain or reinstate landscaped settings and elements (particularly pathway location and materials) for heritage items or buildings within the heritage conservation area.	The current property includes a very high solid front fence which screens much of the building and its immediate garden setting as this section of Lenthall Street is quite busy and the fence assists as a noise barrier as well.  The existing garden (both front and at the rear) is in poor condition and there are no outstanding features that require retention. The large, mature tree that is located to the west of the building is not being removed as part of this application although it seems its root system could be adversely affecting and contributing to the structural damage of the property.	<b>Yes</b>

**3. 79C Matters for consideration**

Section 79C 'Matters for Consideration'	Comments
<b>Environmental Planning Instruments</b>	
Section 79C(1)(a)(i) – Provisions of any	The proposal complies with the provisions of the RLEP in relation to the proposed demolition of the dwelling house.



Section 79C 'Matters for Consideration'	Comments
<b>Environmental Planning Instruments</b>	
environmental planning instrument	
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	No relevant draft planning instruments are applicable.
Section 79C(1)(a)(iii) – Provisions of any development control plan	The proposal satisfies the key DCP provisions within the Randwick DCP as outlined in Section 2 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 of the EP and A Act 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>There are no adverse social, environmental or economic impacts from the proposal. There are economic benefits in supporting the demolition which would be generated by the construction of a replacement building in the future.</p> <p>Social benefits include removing a building which is currently in a very poor state and its instability is contributing to an unsafe environment.</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. Any replacement building will be residential in form and will satisfy the general character and nature of the streetscape and locality and this form of development is suitable for the site.
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.

**4. Referral Comments**

**Heritage comments**

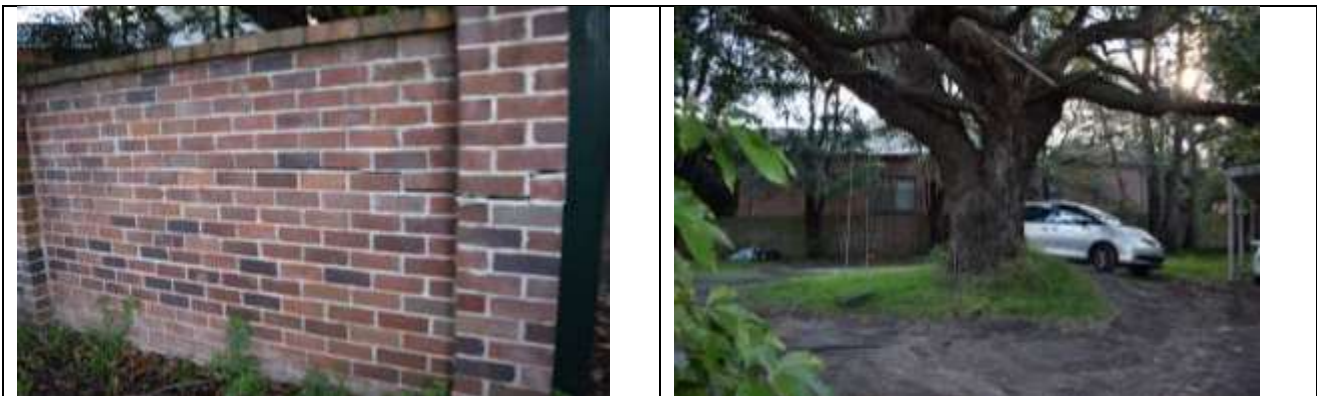
The application was referred to Council’s Heritage Consultant for comment. The following comments were received:

*“Following review of the submitted documentation including the Engineering Report and HIS, and the review of the immediate neighbourhood of the subject dwelling, the proposed works are assessed for their impact on the subject site as a contributory item within an HCA.*

*The Demolition Report and Heritage Impact Statement identifies 35 Lenthall Street as a contributory item within the West Kensington HCA but questions the contribution the existing residence makes. While it is located towards the western boundary of the HCA as indicated in*

the report, the existing residence is clearly visible from the streetscape and is considered to positively contribute to the understanding of the area's historical development, and to the aesthetics of the HCA and streetscape generally. It directly reflects the significance statement of the HCA and is from a key period of development identified in the significance statement for the Kensington HCA. Furthermore, the detailing of the front façade is of particular note and is relatively intact despite alterations and additions conducted and the damage incurred to the dwelling. There are many key contributory elements still present within the dwelling that are readily discernible, particularly to the general public.

From the site inspection conducted on 6 July 2016 and from the documentation reviewed to date, it is evident that the subject dwelling at 35 Lenthall Street is suffering from significant damage, predominately caused by the large tree located in the south western corner of the site. The damage noted during the site inspection was found to be predominately to the interiors of the residence with some cracking noted to the exterior in close inspection. As such, interior detailing has been significantly impacted with various areas of cornice detailing missing or in the very least, severely damaged as a result of the crack formations. It is understood that this cracking has only occurred within the last couple of years and the rate of damage has accelerated over the last year. This is also evident in the various report photographs and images provided by the applicant. As such, the structural integrity of the residence is considered a safety concern. The following images provide an overview of the damage viewed during the site inspection.



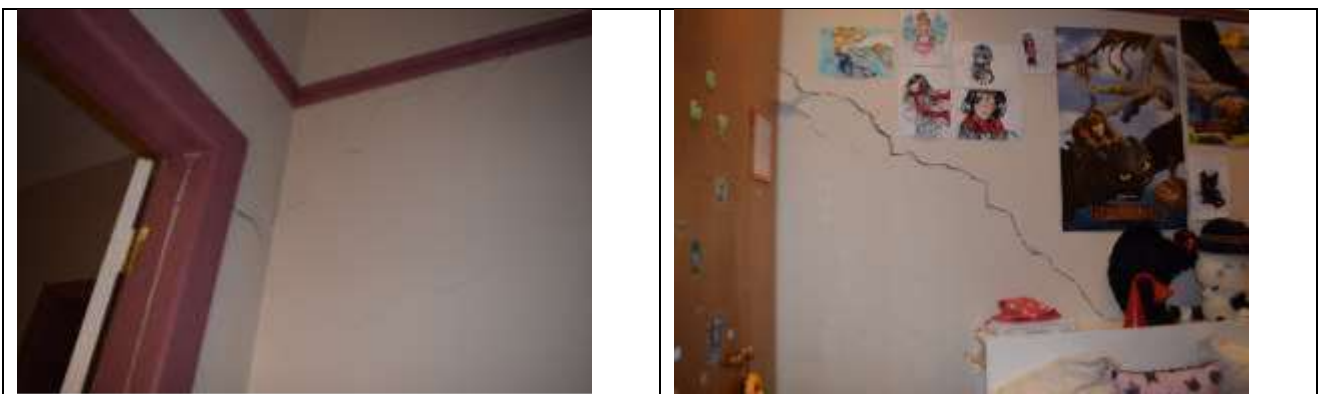
**Figure 1:** View looking towards the front high brick piers and wall fence, a later addition, which has a large central crack (left) and an image of the tree located in the south western corner of the site (right). This tree is also located within proximity to the neighbouring house at 37 Lenthall Street.



**Figure 2:** View of the south western wall of the existing residence (left). Several repair works are clearly visible, particularly towards the rear section, however, it is understood that these repairs were conducted after damage was caused to the dwelling following a storm a number of years ago. The image on the right is a detailed view of the front façade window sill and the cracking occurring to the brickwork underneath. The window frame was also damaged and had separated from the surrounding brick in some areas.



**Figure 3:** Detailed view of the front façade showing repair works previously conducted (left) and an interior view of a front room within the residence, with a large horizontal crack visible directly underneath the cornice detailing (right).



**Figure 4:** Internal views of a doorway (left) and a bedroom (right) with large cracks visible.

The extent of damage the tree is causing to neighbouring properties is hard to ascertain at this stage, however, from the information made available to date, it is clear that the subject dwelling is not the only house that has experienced such problems. Documentation related to a DA submission for 37 Lenthall Street (construction of the existing residence and demolition of a previous residence) indicates the following:

*There is cracking to the brick walls evident in several locations and a significant damp problem to walls in the vicinity of the bathroom.<sup>1</sup>*

External inspection of some neighbouring properties was conducted, however, no visible sign of damage was found. As such, an arborist report should be undertaken to ascertain the health and viability of the tree and concerns for safety should also be addressed.

**In light of the intact external detailing and contributory architectural values of the existing dwelling, complete demolition is not supported.** As such, every effort should be made to retain, stabilise and restore the existing front façade with projecting gabled bay and the south western and north eastern elevations (original part only and not the rear additions). In addition, the roof form should be kept as is, however, internal demolition and reconstruction is considered acceptable from a heritage perspective.

The 1943 aerial image of the site available on the website of the Land and Property Information (<https://maps.six.nsw.gov.au/>) shows the dwelling in its current configuration with the subject tree in existence but in a smaller foliage.

It should be noted that any partial demolition works proposed to the existing dwelling will not be approved unless drawings showing how the front and two sides of the existing dwelling will be incorporated as part of the stabilisation and additions are submitted to Council. The

following control in the Randwick DCP 2013 supports this:

*Randwick Development Control Plan (DCP) 2013 1.9: Demolition Demolition of a heritage item or contributory building in a heritage conservation area is generally NOT supported, unless, there are overriding reasons such as structural damage.*

*While significant structural issues have been identified with the dwelling, there is a potential for retention of some elements (as detailed above) that needs to be explored by the applicant.*

Council's Heritage Consultant has recommended that a number of points be addressed and considered prior to any consent being granted. The following requirements have been recommended;

**1. Drawings of the proposed new dwelling showing the extent of partial demolition and substantial additions behind the recommended retention of the front, and two side (north-eastern and south-western) elevations should be submitted to Council prior to the approval of the partial demolition of the existing dwelling;**

**2. The new dwelling will retain the existing front façade, the south western and north eastern facades (where original) and the existing roof form. Substantial internal demolition and reconstruction is considered acceptable;**

**3. Future application should include a Structural Engineer's recommendations and specifications for the required stabilisation of the retained facades, and ascertain if the removal of the tree will ensure no further foundation movement will occur.**

**4. An Arborist's services should be obtained to inspect the tree and advise on its significance and potential removal.**

The following comments have been provided by Council's external heritage consultant after reviewing the applicant's revised heritage impact statement:

*"Considering the main reason for the proposed demolition being the significant structural issues sustained by the subject residence I also obtained verbal advice from a Structural Engineer who has extensive experience in the preservation and stabilisation of heritage buildings with fragile fabric. He has confirmed the findings of the Engineering Report by Lindsay Dynan (dated 10 May 2016) and its relative high expense for underpinning the suggested/preferred partial demolition that would allow for the retention of the façade and two sides, and demolish the remainder of the house.*

*Although, I do not agree with the following statements of the Heritage Impact Statement that demolition of the subject Contributory item can be supported on heritage grounds because*

- *it does not have a negative impact on the heritage qualities of the conservation area or nearby heritage items.*

...

- *It is not a listed heritage item.*

...

- *It is beyond restoration*

*I recognise the level of difference in significance and importance given between a Heritage Item and a Contributory item when making decision in such expensive exercise and effort to preserve and maintain the facades of the structure. It should be noted that the subject residence is not in a derelict state and it is possible to rectify its structural issues from engineering perspective. The matter here is to balance the potential of demolition versus the financial hardship of underpinning between a Heritage Item and a Contributory Item.*

*Given consideration to all above and further assessment of the situation the proposal for the complete demolition of the subject residence can be supported."*

### **Landscaping comments**

The application was referred to Council's Landscape Officer for comment as there is a large camphor laurel tree dominating the property. It is proposed to retain this tree. Council's landscape officer made the following comments;

*The inspection of 22 July 2016 revealed four juvenile, 2m tall Magnolia grandiflora (Bull Bay Magnolia's) on the public verge, being one towards the western site boundary, one just to the west of the existing vehicle crossing, one just to the east of the existing pedestrian entrance and one just past the eastern site boundary. None would be directly affected given their distance from the site entrance and an absence of any external works, with conditions not required.*

*There are a large quantity of established trees around the perimeter of the site, mostly along the southern and western boundaries, which are recognized as a major landscape feature of the property and surrounding area, particularly given the location within a Heritage Conservation Area, presenting a 'green wall' to both frontages, so assist occupants as well as neighbours with visual and acoustic screening from the adjoining busy roadways and large building projects that are currently underway.*

*While these trees should not be directly affected by demolition given their distance from the dwelling/works, they need to be retained at this stage given their importance discussed above, so conditions require that they be excluded from secondary impacts by the installation of protective fencing, with minimal clearance pruning also allowed if needed.*

*Located centrally in the turfed rear yard, there is a large, mature and visually significant Cinnamomum camphora (Camphor Laurel) of at least 20m x 20m, of good health and fair condition, which is covered by the DCP. Council's aerial photos clearly show the presence of its canopy back in 1955, giving it an age of around 60-80 years.*

***This tree is a major specimen, occupying the entire 'wedge-shaped' area in this part of the site, and will need to be retained for this application as there is no justification that could warrant its removal at this stage. Tree roots are present at surface level throughout this area, with cars repeatedly driving over them, so ground protection and protective fencing will be needed, with conditions also allowing clearance pruning of its eastern aspect where necessary where it overhangs the existing house.***

*The HIS refers to several factors that may be contributing to structural damage being caused to the house (tree root damage being one), if the applicant intends to seek its removal in the future as part of a separate application for a new dwelling, relevant supporting documentation would need to be submitted such as an engineering report for the footings, along with a root mapping/Arborist report.*

*Along the southern boundary (fronting Lenthall Street), between the southwest corner and the vehicle entrance, there is a row of 11 x 6-8m tall Alnus jorullensis (Evergreen Alders) which are covered by the DCP, and while they would not be directly affected by the demolition works, conditions require that they be protected and retained.*

*Adjacent the western edge of the vehicle access, there is an unidentified, 8-10m tall species, which will require clearance lopping for access, with permission granted for this in the report.*

*The two deciduous Magnolia's, being one each to the east and west of the existing pedestrian entrance are too small for the DCP, so no comments have been provided, and can be removed if necessary.*

## **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:

<b>Plan/documents</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
Survey Plan	CMS Surveyors Pty Ltd	28/5/2015	30 May 2016
Demolition Report and Heritage Impact Statement	ID Abode	May 2016	30 May 2016

**Heritage requirements**

- An archival recording of the property shall be prepared and submitted to and approved by Council's Director City Planning, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to the demolition of the building. This recording shall be in accordance with the NSW Heritage Office 2006 Guidelines for Photographic Recording of Heritage Items using Film or Digital Capture. Two copies of the endorsed archival recording shall be presented to Council, one of which shall be placed in the Local History Collection of Randwick City Library and forwarded to the Randwick History Society.
- Any future replacement building must meet Council's planning controls relating to development in Conservation Areas.

**Long service levy**

- 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**

- The following security deposits requirement must be complied, 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 completion.

### Tree Protection Measures

6. In order to ensure retention of the numerous significant trees throughout the site; being firstly, along the western boundary, from south to north, a row of six *Syzygium paniculatum* (Brush Cherry's), two *Casuarina cunninghamiana* (River She Oaks), and another Brush Cherry; then towards the northeast corner, the group comprising from north to south; an unidentified species, a large *Jacaranda mimosifolia* (Jacaranda), and a *Persea amerianna* (Avocado); then centrally in the rear yard, a large *Cinnamomum camphora* (Camphor Laurel), and finally, along the southern boundary, between the southwest site corner and vehicle entrance, the row of eleven *Alnus jorullensis* (Evergreen Alders) and the unidentified species adjacent the western edge of the vehicle access in good health, the following measures are to be undertaken:
  - a. All documentation must show their retention, with the position and diameter of both their trunks and canopies to be clearly and accurately shown on all plans in relation to the works.
  - b. These trees/groups are to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing, which shall be located a minimum distance of **2 metres** (measured off the outside edge of their trunks at ground level), matching up with the respective site boundaries in order to completely exclude them for the duration of works.
  - c. This fencing shall be installed prior to the commencement of demolition works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER".
  - d. In order to prevent soil/sediment being washed over their root systems, erosion control measures must also be provided at ground level around the perimeter of the TPZ's.
  - e. If additional trunk or branch protection is required, this must be provided by way of wrapping layers of geo-textile, underfelt or Hessian, which shall be secured by lengths of evenly spaced hardwood timbers around their circumference, and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
  - f. Ground protection comprising strapped together rumble boards, plywood, a 50mm layer of mulch or similar must be provided in the area between the Camphor Laurel and the full length of the western side of the existing dwelling, and must remain in place for the duration of works.
  - g. Within the TPZ's, there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans needing to acknowledge these requirements.
  - h. Where roots are encountered which are in direct conflict with the approved demolition, they may be cut cleanly, only by hand, not machinery, with the affected area to be backfilled with clean site soil as soon as practically possible.

### Pruning

7. Permission is granted for the minimal and selective pruning of only those lower growing, lower order branches from the trees that are listed in the 'Tree Protection Measures' conditions earlier in this report, only where they overhang towards or over the existing dwelling and need to be pruned in order to avoid damage to the trees; or; interference with the approved works.
8. All pruning must be undertaken by an Arborist who holds a minimum of AQF Level III in Arboriculture, and to the requirements of Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and NSW Work Cover Code of Practice for the Amenity Tree Industry (1998).
9. The site Arborist must contact Council's Landscape Development Officer directly on 9399-0613 (giving at least 2 working days notice) to arrange a joint site meeting, prior to pruning, to determine the exact location and extent of pruning that is permissible, with the Arborist to comply with any instructions issued by Council.

#### **Demolition Work Plan**

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

*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.*



**REQUIREMENTS DURING SITE WORK**

The following conditions of consent must be complied with during the demolition 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 demolition.

**Tree management**

11. Approval is granted for removal of the two deciduous Magnolia’s, being one each to both the east and west of the existing pedestrian entrance, close to the front of the existing dwelling, as well as the small Citrus tree in the rear yard, closest to the rear of the existing dwelling, should it be necessary as part of the works, as they are all too small to be covered by Council’s DCP.

**Site signage**

12. 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)
  - a statement stating that “unauthorised entry to the work site is prohibited”.

**Restriction on demolition hours**

13. 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 works**

14. 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.*

### **Asbestos removal**

15. 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.*

### **Public Safety & Site Management**

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

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

17. 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.
18. 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.*

19. 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 *Council*
  - 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.

#### **Pruning Certification**

20. Prior to the completion of works/the PCA issuing any Occupation Certificate, written certification must firstly be obtained from Council's Landscape Development Officer (9399-0613) confirming that the requirements of the 'Pruning' condition listed earlier in this report was complied with during the course of works.

**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 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:

- Council and the Principal Certifying Authority have been given at least 2 days notice (in writing) prior to commencing any works.

- A3 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.

- A4 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).

- A5 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.