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## **DA COMPLIANCE REPORTS**

**ORDINARY COUNCIL MEETING  
TUESDAY 28 MARCH, 2017**

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# Development Application Compliance Report



<b>Folder /DA No:</b>	DA/958/2016
<b>PROPERTY:</b>	19 Mermaid Avenue, MAROUBRA NSW 2035
<b>Proposal:</b>	Demolition of existing dwelling, construction of a 4 level dwelling with garage and car lift to front, swimming pool to rear and associated works (variation to height control).
<b>Recommendation:</b>	Approval

CP13/17

## Relevant Environment Planning Instruments:

### 1.1 SEPP No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land applies to all land and aims to provide for a State-wide planning approach to the remediation of potentially contaminated land.

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land. If the land is contaminated, the consent authority must be satisfied that the land is suitable in its current state or will be suitable after remediation for the purpose for which the development is proposed to be carried out.

The subject site is within a generally low scale residential environment and there is no evidence that the site is or has been contaminated by any other previous activities or land uses. There is no case to warrant a more detailed site audit statement.

### 1.2 SEPP (Building Sustainability Index: BASIX) 2004

The plans are accompanied by BASIX Certificate which demonstrates that the proposal achieves compliance with the BASIX water, energy and thermal efficiency targets.

Should the application be approved, standard conditions of consent are recommended to ensure the commitments of the certificate are adopted and a compliance certificate is submitted to Council verifying this prior to obtaining an occupation certificate.

### 1.3 SEPP No. 71 – Coastal Protection

The subject site is identified as being within the Coastal Zone as defined under the Coastal Protection Act 1979. Accordingly, State Environmental Planning Policy No. 71 applies to the proposed development.

The policy seeks to protect and manage the natural attributes of the New South Wales coast, ensure the visual amenity of the coast is protected, and protect and preserve rock platforms to ensure that development is of a type, bulk, scale and size that is appropriate for the location and protects and improves the natural scenic quality of the surrounding area.

The proposed development will not adversely affect any public access to the foreshore or any areas of public open space.

Part 2 of this policy sets out the matters for consideration of development which in addition to the aims of the policy includes:

- the suitability of development given its type, location and design and its relationship with the surrounding area,*
- any detrimental impact that development may have on the amenity of the coastal foreshore,*
- the scenic qualities of the NSW coast, and means to protect and improve these qualities.*

Having regard to the overall aims of the policy and the relevant matters for consideration it is concluded that the proposed dwelling and associated works are reasonable within the context of surrounding developments, its relationship to the foreshore and the local area. The proposal not detract from either the amenity or scenic qualities of the coastal environment and as such is consistent with the provisions of SEPP 71.

## 2. 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 a dwelling house and is permissible in the zone. The proposed development has been designed to satisfy the zoning objectives which are outlined below;

- 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 following Clauses of RLEP 2012 apply to the proposal:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
<b>Clause 4.3</b> Height of Building (Maximum)	9.5m	Varies in height but reaches a maximum of between 10.05m to 13.16m	<b>No</b> Clause 4.6 Statement submitted to support the height non-compliance.  Refer to assessment
<b>Clause 4.4</b> Floor Space Ratio (Maximum)	0.60:1	0.58:1	<b>Yes</b>
<b>Clause 4.6</b> Exceptions to Development standards	Height control	Exceeds height control	Clause 4.6 statement submitted for the height variation (discussed further in the planning report)
<b>Clause 5.5</b> Development within the coastal zone	Objectives of the clause are to provide for the protection of the coastal environment of the State for the benefit of both present and	Satisfies the objectives and commitments specified within the clause.	<b>Yes</b>

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
	future generations through promoting the principles of ecologically sustainable development and to implement the principles in the NSW Coastal Policy,		
<b>Clause 5.9</b> Preservation of trees and vegetation	To retain any significant trees and associated existing vegetation.	There are no significant trees or vegetation on the site to be removed.	<b>Yes</b>
<b>Clause 5.10</b> Heritage Conservation	Heritage conservation	The site is not an Item or within a Heritage Conservation Area	<b>N/A</b>
<b>Clause 6.1</b> Acid Sulphate Soils (ASS)	To ensure that development does not disturb, expose or drain acid sulphate soils and cause environmental damage.	The site is not located within an area designated to include ASS.	<b>N/A</b>
<b>Clause 6.2</b> Earthworks	To ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses...or features of the surrounding land.	The proposal includes excavation however the home has been designed to step down the site which falls dramatically to the east (rear).	<b>Yes</b>
<b>Clause 6.6</b> Foreshore Building Line	To ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.	The foreshore building line affects a small portion of the rear section of the property. No proposed building works will encroach upon the established building line.	<b>Yes</b>
<b>Clause 6.7</b> Foreshore Protection Area (FSPA)	The clause seeks to protect and enhance the natural, visual and environmental qualities of the scenic areas of the coastline	A generally sensitive and skillful design has been developed that considers the foreshore location and the building steps down the site to correspond with the topography.	<b>Yes</b>

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
		The proposed development is consistent with the character of development along the foreshore	

**Clause 6.6 Development beyond the foreshore building line**

Clause 6.6 of RLEP establishes a foreshore building line for properties within the FSPA and seeks that no development occur within this area which acts as a buffer between development and the foreshore. This control ensures that there is greater physical separation between manmade structures and sensitive natural features (refer to the Map 1 extract below).



**Map 1 – Foreshore Scenic Protection area (FSPA) and foreshore Building Line along Mermaid Avenue**

The subject site falls within the FSPA and the proposed building is setback 6.5m-8m from the rear boundary. The swimming pool and terrace structure at this lower level is in line with the rear building alignment of No.17 Mermaid Avenue.

No proposed building works will encroach on the established foreshore building line. The rear portion of the site beyond the swimming pool will be turfed and softly landscaped predominantly with native vegetation which will soften the rear of the development and create a sympathetic transition between the built form and coastal interface.

The proposed design is consistent with the objectives and purpose of Clause 6.6 and 6.7 of the RLEP.

**1. 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>2</b>	<b>Site planning</b>		
<b>2.1</b>	<b>Minimum lot size and frontage</b>		
	Minimum lot size (RLEP): • R2 = 400sqm	No subdivision is proposed or alteration to the existing site area of 665.3sqm	<b>Yes</b>
	<b>Minimum frontage</b>		
	i) Min frontage R2 = 12m	Existing = 15.54m	<b>Yes</b>
<b>2.3</b>	<b>Site coverage</b>		
	601 sqm or above = 45%	Site = 665.3m <sup>2</sup> Proposed = 40.9%	<b>Yes</b>
<b>2.4</b>	<b>Landscaping and permeable surfaces</b>		
	i) 601 sqm or above = 35% 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.	Site = 665.3m <sup>2</sup> Proposed = 38% (253.38m <sup>2</sup> ) provided.	<b>Yes</b>
<b>2.5</b>	<b>Private open space (POS)</b>		
	<b>Dwellings</b>		
	601 sqm or above = 8m x 8m	There are a variety of areas of private open space provided at differing levels of the development at the rear. The rear turfed area has dimensions of 15m by 8m which satisfies Council's control.	<b>Yes</b>
<b>3</b>	<b>Building envelope</b>		
<b>3.1</b>	<b>Floor space ratio LEP 2012 = 0.6:1</b>	Site area = 665.3m <sup>2</sup>	<b>Yes</b>

DCP Clause	Controls	Proposal	Compliance
		Proposed FSR = 0.58:1 Architects calculations were confirmed and seemed generally accurate with the definition of GFA excluding only basement storage/plant room and circulation spaces	
<b>3.2</b>	<b>Building height</b>		
	<b>Maximum overall height LEP 2012 = 9.5m</b>	Proposed = The highest point of the house reaches some 13.16m (northern side). This measurement excludes the chimney flue and approximately 10m at a similar point on the southern side.  The non-compliance is in a small portion in the central part of the site.	<b>No – Clause 4.6 statement lodged</b> See assessment
	ii) Sloping sites = 8m	The proposal will vary the wall height control but at the maximum point the dwelling reaches some 9.8m along the southern side and 12m along the northern side.	<b>No</b> See height discussion concerning variation to maximum height control.
<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.	The front setback is consistent with the siting and location of the existing home.  Both immediately adjoining properties No.17 and No.21 Mermaid Avenue are setback further than the proposed dwelling.  Most new dwellings along this side of the street (the lower side) are located closer to the street frontage to minimize impacts at the rear and to better	<b>No</b> see assessment.



DCP Clause	Controls	Proposal	Compliance
		<p>utilize the rear yard area.</p> <p>The existing dwelling and garage are setback approximately 1.5m-3m. The proposed front setback between 500mm to 1.5m. The single storey scale of the property to Mermaid Avenue will not create a large or dominating structure to the street. It will maintain a human scale and therefore the building's proximity to the street frontage is not considered to create any adverse streetscape impacts.</p>	
<p><b>3.3.2</b></p>	<p><b>Side setbacks:</b> Dwellings:  Frontage over 12m = 1200mm (Gnd &amp; 1<sup>st</sup> floor), 1500mm above.</p>	<p>The proposal has a minimum of 1200mm side setbacks on both sides, with a slight encroachment of the eaves which is permitted.</p> <p>There are sections of the development that are three storeys and at those points the upper elements should technically be setback 1.5m from the side boundaries to satisfy the DCP provisions.</p> <p>The non-compliance is some 300mm along both sides and compliance will achieve little improvement in the physical separation of the properties and compliance will be at the detriment of the overall design.</p>	<p><b>Partial non-compliance</b></p>
<p><b>3.3.3</b></p>	<p><b>Rear setbacks</b> i) Minimum 25% of allotment depth or 8m, whichever lesser. ii) Provide greater than aforementioned</p>	<p>The building is setback 8m from the southern side but only 6.5m along the northern</p>	<p><b>Partial non-compliance</b>  See</p>

DCP Clause	Controls	Proposal	Compliance
	<p>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>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.</p>	<p>side.</p> <p>The encroachment of 1.5m is created by the planter box which is part of the swimming pool structure.</p> <p>The DCP permits some encroachments on the rear setback which includes structures such as car ports, garages, pools, water tanks and the like if the structures satisfy the other key controls within the DCP.</p> <p>The encroachment is considered to be minor and will only consist of a planter box which is seeking to improve the visual appearance of the development from the rear. This section of the building is still setback further than the existing dwelling to the north (No.17) so it will not be a dominating feature. The planter box is raised some 2m above the ground level which isn't considered excessive in height and once vegetated will be seen to blend into the natural environment and provide additional screening.</p> <p>The rear encroachment does not affect the foreshore building line.</p>	<p>assessment</p>
<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 -	The proposed development has been well designed to	<b>Yes</b>

DCP Clause	Controls	Proposal	Compliance
	<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>appropriately respond to the coastal and natural environmental setting.</p> <p>The design consists of high quality finishes and steps down the site to respect the natural fall and topography of the land.</p>	
<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> <li>Dormers</li> <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 Celestial windows and skylights</li> <li>vii) Sympathetic to design of dwelling Mechanical equipment</li> <li>viii) Contained within roof form and not visible from street and surrounding properties.</li> </ul>	<p>No roof top terrace is proposed.</p> <p>No dormer windows are incorporated into the design.</p> <p>There is a designated plant room adjoining the garage and a switch room which is located at the Ground Level (located below ground) which should be able to cater for any of the associated mechanical plant and equipment.</p>	<b>Yes</b>
<b>4.5</b>	<b>Colours, Materials and Finishes</b>		
	<ul style="list-style-type: none"> <li>i) Schedule of materials and finishes</li> <li>ii) Finishing is durable and non-reflective.</li> <li>iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration)</li> <li>iv) Articulate and create visual interest by using combination of materials and finishes.</li> <li>v) Suitable for the local climatic to withstand natural weathering, ageing and deterioration.</li> <li>vi) recycled and re-use sandstone (See also section 8.3 foreshore area.)</li> </ul>	<p>Details of materials and finishes have been provided via a schedule prepared by Walter Barda Design and accompany the application.</p> <p>The proposed colours and materials are sympathetic to the coastal environment incorporating natural sandstone colours and finishes.</p>	<b>Yes</b>
<b>4.6</b>	<b>Earthworks</b>		
	<ul style="list-style-type: none"> <li>i) excavation and backfilling limited to 1m, unless gradient too steep</li> <li>ii) minimum 900mm side and rear setback</li> <li>iii) Step retaining walls</li> <li>v) sloping sites down to street level must minimise blank retaining walls</li> </ul>	<p>There is quite substantial cut proposed as part of the works. This is a resultant feature of the steep slope of the site and common for</p>	<p><b>Partial non-compliance</b></p> <p>There are areas of excavation that are greater</p>

DCP Clause	Controls	Proposal	Compliance
	(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.	existing and new properties in the street.  The design of stepping the building down the site limits the visual bulk and scale and creates a built form that is in keeping with the natural terrain.  The design satisfies the DCP controls relating to earthworks.	than 1m however these are consistent with the form and type of development in the street and the fact that excavation is required to achieve a stepped design which minimizes visual bulk.
<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.	The DA documentation includes detailed shadow diagrams and 3D shadow diagrams.  Due to the location of No.17 Mermaid Avenue, further down the site, the proposed building will receive a high level of solar access throughout the day and will comply with Council’s DCP requirements.	<b>Yes</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	There is no shadowing caused to No.17 Mermaid Avenue.  The proposed east/west orientation of the block creates the main solar impact to the south, No.21 Mermaid Avenue.  The current dwelling house impacts on No.21. The 3D shadow diagrams provide a good depiction of the proposed shadowing impacts.	<b>Yes</b>

DCP Clause	Controls	Proposal	Compliance
	<p>dwelling.</p> <p>vi) Variations may acceptable be subject to:</p> <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>	<p>No.21 Mermaid Avenue is a two storey dwelling with the main living areas at the upper level and this includes a deck at the rear which has been filled in (the enclosure of the rear upper floor deck is not depicted in the 3D diagrams as they still indicate the deck as an open style structure). This is not so important as it is whether this space achieves adequate solar access which is of importance.</p> <p>There is a small window along the northern elevation that addresses this space as well as the larger northern window.</p> <p>The existing shadows indicate that the smaller window along the northern elevation is free of shadows most of the day.</p> <p>As the balcony has been enclosed the windows have been extended further to the east and the internal living space has been enlarged. The relocation of the windows closer to the east results in the internal space receiving the minimum 3hours of sunlight currently.</p> <p>The proposal will retain good solar access for the smaller window from 8am-11am. At about 11.30am about 50%</p>	

DCP Clause	Controls	Proposal	Compliance
		<p>of the window is in shadow so it still complies with the 3 hour minimum provision. On this basis, the larger window to the enclosed deck along the northern side should also receive adequate sunlight from 8am until 12noon which satisfies the control.</p> <p>Well over 50% of the rear yard area of No.21 Mermaid Avenue will receive sunlight between 9am until 12noon.</p> <p>The adjoining property does not include any solar panels on their roof.</p>	
<b>5.2</b>	<b>Energy Efficiency and Natural Ventilation</b>		
	<p>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</p>	<p>High levels of solar access will be provided to all internal spaces.</p>	<b>Yes</b>
<b>5.3</b>	<b>Visual Privacy</b>		
	<b>Windows</b>		
	<p>i) minimise any direct viewing habitable of proposed and neighbours habitable room windows by one or more of the following measures:</p> <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> <p>ii) orientate living and dining windows away from similar opposite (that is front or rear or side courtyard</p>	<p>Window locations along the southern side of the proposed dwelling are minimized due to the orientation. The windows proposed along this elevation are highlight windows or windows that include fixed privacy screens. The balconies along this side also include privacy screens which will minimize the potential for overlooking.</p> <p>Along the northern side there are larger window openings</p>	<b>Yes</b>

DCP Clause	Controls	Proposal	Compliance
		<p>proposed to maximize the orientation and outlook. The large windows along the northern side of the entry foyer are setback 3m from the side boundary and there is a planter box included as an external element to this to break up the mass of glass. The two sets of large centralized windows are to the staircase and it will be unlikely that there will be overlooking created as these spaces are not habitable areas and they are located away from No.21 Maermaid Avenues main living areas.</p> <p>The only potential issue arising is from the living area which will be located at a much higher level than No.17. It is recommended by way of a condition that the northern living room window include fixed privacy louvre angled away from the rear yard of No.17.</p> <p>There are some other conditions included, if approval is recommended to ensure that overlooking to the north is minimized.</p>	
	<b>Balcony</b>		
	<ul style="list-style-type: none"> <li>i) Upper floor balconies to street or rear yard of the site. (wrap around balcony to have a narrow width at side)</li> <li>ii) Privacy screens</li> <li>iii) minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or</li> </ul>	<p>The proposed decks and balconies include appropriate screening to reduce overlooking to the north.</p> <p>A condition will ensure all the screens are angled away from the</p>	<b>Yes</b>

DCP Clause	Controls	Proposal	Compliance
	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.	rear yard area of No.17.	
<b>5.4</b>	<b>Acoustic Privacy</b>		
	i) noise sources not located adjacent to adjoining dwellings bedroom windows	It is unlikely the development will generate any unreasonable acoustic impacts. Currently the homes all have large outdoor decks and pools for entertaining purposes. The proposal although increasing the amount of living space and associated outdoor areas is commensurate with the form of new dwellings in the area and street.	<b>Yes</b>
<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 design satisfactorily addresses this issue.  The proposed front fence is generally low having a height of between 1.2m to 1.5m and aims to provide protection as well as assist in screening the garbage area.	<b>Yes</b>
<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	One submission was received in respect to the proposal which raised concern regarding potential view loss. The property which raised the concern is located across the road and is on the higher side of Mermaid Avenue. The objector's property was inspected and	<b>Yes</b> See assessment



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)	plans explained to them.  It was agreed that the potential view loss from the proposal which mainly related to the glazed street level section that partially houses the car lift is minimal and their primary ocean views to the east, and south east will remain unchanged.  The view loss is considered minimal and will satisfy the Tenacity view loss principles and DCP provisions.	
<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 proposed garage is essentially replacing the existing garage. The location is in keeping with the double garages and their location along this side of the street.  Due to the topography of the site access can only be provided off Mermaid Avenue and the structure can not be sited behind the front façade.  The garage does include some excavation to be able to cater for a car lift that will allow for 4 vehicles to be accommodated on site. This is considered to be an acceptable design solution and there will be no adverse impacts as most of the works are sited below ground.	<b>Yes</b>

DCP Clause	Controls	Proposal	Compliance
<b>6.2</b>	<b>Parking Facilities forward of front façade alignment (if other options not available)</b>		
	ii) Regardless of the site’s frontage width, the provision of garages (single or double width) within the front setback areas may only be considered where: <ul style="list-style-type: none"> <li>- There is no alternative, feasible location for accommodating car parking;</li> </ul> iii) Regardless of site’s frontage, the forward parking structures are only considered where: <ul style="list-style-type: none"> <li>- no alternative or feasible location</li> <li>- Significant slope down to street level</li> <li>- does not adversely affect the visual amenity of the street and the surrounding areas;</li> <li>- does not pose risk to pedestrian safety and</li> <li>- does not require significant contributory landscape elements (such as rock outcrop or sandstone retaining walls)</li> </ul>	The siting of the garage structure at the front of the site satisfies the DCP provisions as it is not feasible, practical or viable to place the parking in any other location and it is consistent with the current location of the garage.  It will be well designed and will not be a visually dominating structure.	<b>Yes</b>
<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: <ul style="list-style-type: none"> <li>- nil side setback on adjoining property;</li> <li>- streetscape compatibility;</li> <li>- safe for drivers and pedestrians; and</li> <li>- Amalgamated driveway crossing</li> </ul>	The garage structure is setback 1.2m from the southern boundary which is greater than the 900mm requirement for a single storey structure. No issues are raised by Council’s Engineers in respect to the siting and layout of the garage.	<b>Yes</b>
<b>6.4</b>	<b>Driveway Configuration</b>		
	Maximum driveway width: <ul style="list-style-type: none"> <li>- Double driveway – 5m</li> </ul> Must taper driveway width at street boundary and at property boundary	The driveway width is 5m	<b>Yes</b>
<b>6.5</b>	<b>Garage Configuration</b>		
	i) recessed behind front of dwelling ii) The maximum garage width (door and piers or columns): <ul style="list-style-type: none"> <li>- Double garage – 6m</li> </ul> iii) 5.4m minimum length of a garage iv) 2.6m max wall height of detached garages v) recess garage door 200mm to	Garage is 3.2m in height and the door width is 5m.Length is 5.4m.  The garage is designed as an integral part of the	<b>Yes</b>

DCP Clause	Controls	Proposal	Compliance
	300mm behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) minimum clearance 2.2m AS2890.1	dwelling so the 2.6m height maximum is not applicable as this is only in relation to detached garages.	
<b>7</b>	<b>Fencing and Ancillary Development</b>		
<b>7.2</b>	<b>Front Fencing</b>		
	i) 1200mm max. (Solid portion not exceeding 600mm), except for piers. ii) light weight materials used for open design and evenly distributed iii) 1800mm max solid front fence permitted in the following scenarios: - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment). - avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants) viii) The fence must align with the front property boundary or the predominant fence setback line along the street. ix) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines.	The front fence has a height of 1.2m to 1.5m along the northern side. It is proposed as a solid masonry fence however the fence only takes up 6m of the 15m frontage which equates to less about 40% of the frontage width. In addition to this the solid fence is an additional feature to assist in screening the garbage area. Planting is proposed behind the fence which will soften the appearance of the fence and dwelling.	<b>No</b> but satisfactory given the streetscape
<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.	No details of the proposed side and rear fencing is provided.  As such a condition is imposed if approval is granted.	Condition will ensure compliance
<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	The swimming pool location satisfies the DCP controls.	<b>Yes</b>

DCP Clause	Controls	Proposal	Compliance
	<p>affected) between setbacks.</p> <p>vii) Position decking to minimise privacy impacts.</p> <p>viii) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings.</p>		
<b>7.6</b>	<b>Air conditioning equipment</b>		
	<p>i) Minimise visibility from street.</p> <p>ii) Avoid locating on the street or laneway elevation of buildings.</p> <p>iii) Screen roof mounted A/C from view by parapet walls, or within the roof form.</p> <p>iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings.</p>	A condition will ensure that all plant and mechanical equipment including air conditioning is	Compliance via a condition
<b>7.8</b>	<b>Clothes Drying Facilities</b>		
	<p>i) Located behind the front alignment and not be prominently visible from the street</p>	This is screened and located at the rear of the property at the ground floor level.	<b>Yes</b>
<b>8.3</b>	<b>Foreshore Scenic Protection Area</b>		
	<p>i) Consider visual presentation to the surrounding public domain, including streets, lanes, parks, reserves, foreshore walkways and coastal areas. All elevations visible from the public domain must be articulated.</p> <p>ii) Integrated outbuildings and ancillary structures with the dwelling design (coherent architecture).</p> <p>iii) Colour scheme complement natural elements in the coastal areas (light toned neutral hues).</p> <p>iv) Must not use high reflective glass</p> <p>v) Use durable materials suited to coast</p> <p>vi) Use appropriate plant species</p> <p>vii) Provide deep soil areas around buildings</p> <p>viii) Screen coping, swimming and spa pools from view from the public domain.</p> <p>ix) Integrate rock outcrops, shelves and large boulders into the landscape design</p> <p>x) Any retaining walls within the foreshore area (that is, encroaching upon the Foreshore Building Line) must be constructed or clad with sandstone.</p>	<p>The proposed development has been designed to respect the coastal terrain and topography.</p> <p>The proposed built form is consistent with the character of newly constructed homes on this side of Mermaid Avenue and those homes on the high side of the street (No.16, 14 and 12 Mermaid Avenue). Much of the bulk and scale of the home will not be visible from the street as the building will step down to the rear.</p> <p>The proposed colours, materials and finishes are of high quality and respect the natural characteristics of the foreshore.</p>	<b>Yes</b>

**2. 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 proposal satisfies the main planning provisions of the RLEP 2012. The non-compliance with the height control is supported by the provision of a Clause 4.6 Statement. This issue is addressed in detail in the assessment section of the report.
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	No draft planning instruments apply.
Section 79C(1)(a)(iii) – Provisions of any development control plan	The proposed development generally satisfies the objectives and controls of the RDCP where non-compliance occurs this is addressed in detail in the assessment report and may be resolved by the implementation of additional design measures advocated via conditions.
Section 79C(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	No VPA’s apply or are proposed as part of this proposal.
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.</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	<p>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.</p> <p>The proposal is in keeping with the zone objectives.</p>
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the one submission that was lodged with Council has been addressed in this report.
Section 79C(1)(e) – The public interest	<p>The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, amenity or economic impacts on the locality. The development is skilfully designed and will result in a high quality built form that will improve the streetscape and visual appearance of the existing building on site which is considered to be old, outdated housing stock.</p> <p>Accordingly, the proposal is considered to be in the public interest.</p>

### 3. Referral Comments

#### Engineering

##### **Drainage Comments**

Detailed drainage plans with levels reduced to Australian Height Datum (AHD), shall be prepared by a suitably qualified Hydraulic Engineer and be submitted to and approved by the certifying authority. A copy of the plans shall be forwarded to Council, if Council is not the certifying authority.

Roof stormwater must be directed to a suitably designed and constructed rainwater tank, as required in the relevant BASIX Certificate for the dwelling. The overflow from the rainwater tank and other surface stormwater must be directed (via a sediment/silt arrestor pit) to:

##### **Landscape Comments**

The inspection of 28 February 2017 revealed a semi-mature, 4m x 4m *Cupaniopsis anacardioides* (Tuckeroo) on the public verge, to the north of the existing vehicle crossing, towards the northern site boundary, which is a native coastal species that is part of a formal strategy in this area, is in good health and condition, and is automatically protected by Council's DCP due to its location on public property.

The existing crossing is offset a distance of 8m to its south, and while it is shown as being widened, which will reduce the offset down to about 5m, this is still sufficient to ensure that no direct damage or conflict will result, with protection measures to prevent damage from trucks, deliveries and similar imposed, along with a bond as security for compliance.

A 2-3m tall *Draceana* has been planted by the owner on the public verge, against the front fence/driveway, which will need to be removed by the applicant, wholly at their cost, as part of the external works, with relevant conditions provided.

The other Tuckeroo's on the verge, being one each past the southern and northern site boundaries, in front of no.21 & 17 respectively, will not be directly affected given their physical distance from all external works, with conditions not required, with the same also applying to the mature Coastal Banksia that is growing in the front yard of no.21, as the existing brick boundary walls/fences would have prevented the growth of roots into the public domain.

This Lot falls steeply away to the east, with a group of self-seeded shrubs/small trees observed to be growing hard up against the northeast corner of the existing dwelling, being three *Phoenix canariensis* (Canary Island Date Palms) and a *Lagunaria patersonii* (Norfolk Island Hibiscus), which are all recognised as environmental weeds or undesirable species, so can be removed in order to accommodate the significant earthworks and new footprint that are shown as occupying this same area.

In the rear setback, along the southern site boundary, beyond the southeast corner of the existing dwelling, there is a mature, 4m x 4m *Metrosideros excelsa* (Pohutakawa) which is an exotic species of no value to the local environment or native fauna, and given its direct conflict with the pool and pool terrace area, can be removed as shown, along with the self-seeded *Phoenix canariensis* (Canary Island Date Palm) to its northeast.

While the mature *Lagunaria patersonii* (Norfolk Island Hibiscus) further to the east, beyond the southeast corner of the site is exempt from the DCP due to being listed as an undesirable species, given its location wholly on the adjoining private property at no.21, Council has a common law responsibility to ensure it is not affected in anyway, but given an absence of any major works in this area, no impacts will result, with conditions not necessary.

As this site falls within the Foreshore Scenic Protection Zone, the provisions of SEPP 71 – Coastal Protection apply, with Council required to ensure that the development is designed in such a manner that it will not detract from the natural settings of the area, and while the amount of impervious surfaces will be greatly increased due to the sheer size of the new

dwelling and associated works, the amount of planting using native coastal species has also been dramatically increased within each of the terraces that step down the block.

#### **Undergrounding of power lines to site**

At the ordinary Council meeting on the 27<sup>th</sup> May 2014 it was resolved that;

*Should a mains power distribution pole be located on the same side of the street and within 15m of the development site, the applicant must 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.*

The subject **is not** located within 15m of a power pole on the same side of the street hence the above clause **is not** applicable.

#### **4. 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>
Cover Sheet A-0000 Issue 2	Walter Barda Design	8 December 2016	23 December 2016
Site Plan A-1101 Issue 2	Walter Barda Design	8 December 2016	23 December 2016
Waste Management Plan A-1102 Issue 2	Walter Barda Design	8 December 2016	23 December 2016
Landscape Plan A-1900 Issue 1	Walter Barda Design	8 December 2016	23 December 2016
Floor Plans 01 A-2001 Issue 4	Walter Barda Design	8 December 2016	23 December 2016
Floor Plans 02 A-2002 Issue 5	Walter Barda Design	8 December 2016	23 December 2016
Area Calculations A-2701 Issue 4	Walter Barda Design	8 December 2016	23 December 2016
Deep Soil and Sie Coverage Calculations A-2702 Issue 1	Walter Barda Design	8 December 2016	23 December 2016
Existing and proposed shadow diagrams A-2706 Issue 1	Walter Barda Design	8 December 2016	23 December 2016
Existing and proposed shadow diagrams A-2703 Issue 2	Walter Barda Design	8 December 2016	23 December 2016
Existing and proposed shadow diagrams A-2704 Issue 2	Walter Barda Design	8 December 2016	23 December 2016
Elevations and Basix	Walter Barda	8 December 2016	23 December 2016



commitments A-3001 Issue 5	Design		
Elevations 01 and Basix Commitments A-3001 Issue 5	Walter Barda Design	8 December 2016	23 December 2016
Elevations 02 A-3002 Issue 4	Walter Barda Design	8 December 2016	23 December 2016
Sections 01 A-3101 Issue 4	Walter Barda Design	8 December 2016	23 December 2016
Schedule of Colours and Materials Issue P1	Walter Barda Design	20 December 2016	23 December 2016
Survey Plan	LTS Lockley Surveyors	9 March 2016	23 December 2016

<b><i>BASIX Certificate No.</i></b>	<b><i>Dated</i></b>	<b><i>Received by Council</i></b>
No.783577S	16 December 2016	23 December 2016

**Amendment of Plans & Documentation**

2. The approved plans and documents must be amended in accordance with the following requirements:
  - a. A louvred privacy screen having a minimum height of 1.5m above floor level must be provided to the following areas;
    - i) For a length of 1m extending beyond the column adjoining the planter box along the northern side of Level 2 to assist in screening the accessway to the master terrace.
    - ii) A 1m long privacy screen along the northern side of the ground floor terrace to screen part of the staircase leading up to the living area on Level 1.
  - b. All privacy screens must be constructed of metal or timber and the total area of any openings within the privacy screen must not exceed 25% of the area of the screen. Alternatively, the privacy screen may be constructed with translucent, obscured, frosted or sandblasted glazing in a suitable frame. The screens are to fixed and be angled so that you can not look down to any areas of private open space or through to any key habitable areas.
  - c. The eastern most panel of the main staircase (adjacent to the landing) at all levels shall be constructed of obscure glazing or include a full length external fixed privacy screen to reduce the potential for overlooking to No.17. This reduces the potential for perceived overlooking and breaks up the extent of glazing along this side.
  - d. The walkway leading out to the master terrace on Level 2 shall be cutback by 3.5m from the east so that the viewing platform/area is removed and replaced with planting and access is provided only to the terrace area to the south.
  - e. Any new side boundary fencing shall be designed to be stepped down the site and shall be constructed of solid materials (preferably of timber) and options discussed with the adjoining neighbours to ensure mutual agreement.
  - f. The rear boundary fence shall be a low scale fence to a maximum height of 1.5m (so as to reduce the height and scale of this structure to the foreshore) and



should be constructed of materials that are sympathetic to the foreshore (preferably timber).

- g. No access shall be provided from the rear to the foreshore.

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

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

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

#### **Consent Requirements**

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

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

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

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

#### **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 \$2,224,163 the following applicable monetary levy must be paid to Council: \$22,241.63.

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*.

*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**

7. 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*:

- \$3,000.00 - 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.

**Design Alignment levels**

8. The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, shall be as follows:

- RL 35.80 AHD

The design alignment levels at the property boundary as issued by Council must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.

9. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of \$858.00 calculated at \$56.00 (inclusive of GST) per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.

**Sydney Water**

10. 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 the Sydney Water [Tap in™](#) online service, 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.

The Sydney Water Tap in™ online service replaces the Quick Check Agents as of 30 November 2015

The Tap in™ service provides 24/7 access to a range of services, including:

- Building plan approvals
- Connection and disconnection approvals
- Diagrams
- Trade waste approvals
- Pressure information
- Water meter installations
- Pressure boosting and pump approvals
- Change to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

The Principal Certifying Authority must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.

#### **Stormwater drainage**

11. Detailed drainage plans with levels reduced to Australian Height Datum (AHD), shall be prepared by a suitably qualified Hydraulic Engineer and be submitted to and approved by the certifying authority. A copy of the plans shall be forwarded to Council, if Council is not the certifying authority.

The drainage plans must demonstrate compliance with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing and Drainage - Stormwater Drainage) and the relevant conditions of this development approval.

#### **Stormwater Drainage**

12. A site stormwater drainage system is to be provided in accordance with the following requirements (as applicable):
- a) The stormwater drainage system must be designed and constructed to satisfy the relevant requirements in the Building Code of Australia,
  - b) Roof stormwater must be directed to a suitably designed and constructed rainwater tank, as required in the relevant BASIX Certificate for the dwelling,
  - c) The overflow from the rainwater tank and other surface stormwater must be directed to a suitably designed sediment/silt arrestor pit,
  - d) Details of the design and construction of the stormwater drainage system and sediment site arrestor pit/s must be submitted to and approved by the Certifying Authority with the Construction Certificate and all works are to be carried to the satisfaction of the Principal Certifying Authority.
13. Should the proposed discharge point for the sites stormwater be to Council's Nature Reserve / Water Course at the rear of the site then the applicant is to submit details to Council's Certifying Authority, prior to the issuing of a Construction Certificate, that shall include a designed headwall and appropriate scour protection that is to be provided around the outlet pipe.

#### **Site seepage and dewatering**

14. The development must comply with the following requirements to ensure the adequate management of site seepage and sub-soil drainage:

- a) Seepage/ground water and subsoil drainage (from planter boxes etc) must not be collected & discharged directly or indirectly to Council's street gutter or underground drainage system
- b) Adequate provision is to be made for the ground water to drain around the lower levels (to ensure the lower levels will not dam or slow the movement of the ground water through the development site).
- c) The walls of the lower level/s of the building are to be waterproofed/tanked to restrict the entry of any seepage water and subsoil drainage into these levels of the building and the stormwater drainage system for the development.
- d) Sub-soil drainage systems may discharge via the Council's Nature Reserve / Water Course at the rear of the site.
- e) Details of the proposed stormwater drainage system including methods of tanking the lower levels and any sub-soil drainage systems (as applicable) must be prepared or approved by a suitably qualified and experienced Professional Engineer to the satisfaction of the Certifying Authority and details are to be included in the construction certificate. A copy of the proposed method for tanking the basement levels must be forwarded to Council if Council is not the Certifying Authority.

#### **Landscape plan**

15. The Certifying Authority/PCA must ensure that the Landscape Plan submitted as part of the approved Construction Certificate is substantially consistent with the Landscape Plan by Walter Barda Design, dwg A-1900, issue 1, dated 06.12.16.

#### **Street tree protection**

16. In order to ensure retention of the *Cupaniopsis anacardioides* (Tuckeroo) on the Mermaid Avenue verge, to the north of the vehicle crossing, towards the northern site boundary in good health, the following measures are to be undertaken:
  - a. All documentation submitted for the Construction Certificate application must show its retention, with the position and diameter of both its trunk and canopy to be clearly and accurately shown on all plans in relation to the proposed works.
  - b. Any excavations associated with the installation of new services, pipes, stormwater systems or similar over public property can only must be located along either side of the new crossing.
  - c. The Construction Certificate plans must show that the northern edge of the new vehicle crossing will be offset a minimum distance of **4500mm** (as is shown on the Site Plan, dwg A-1101), measured off the outside edge of its trunk at ground level.
  - d. This tree is to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing, which shall be located a minimum distance of **3m** to its south and **2.5m** to its north (measured off the outside edge of its trunk at ground level), matching up with the front property boundary to its east, and pedestrian footpath to its west, in order to completely enclose this tree for the duration of works.
  - e. This fencing shall be installed prior to the commencement of demolition and construction 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".

- f. In order to prevent soil/sediment being washed over its root system, erosion control measures must be provided at ground level around the perimeter of the TPZ.
- g. Other than the approved works, the applicant is not authorised to perform any other works to this public tree, and must contact Council's Landscape Development Officer on 9093-6613 should pruning or similar works appear necessary. If approval is given, it can only be performed by Council, wholly at the applicants cost, with payment to be received prior to the issue of an Occupation Certificate.
- h. Within the TPZ, 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.
- i. Where roots are encountered which are in direct conflict with the approved works, they may be cut cleanly by hand (using only hand held tools, not machinery), with the affected area to be backfilled with clean site soil as soon as practically possible.
- j. The PCA must ensure compliance with all of these requirements, both on the plans as well as on-site during the course of construction, and prior to issuing any type of Occupation Certificate.
- k. A refundable deposit in the form of cash, credit card or cheque for an amount of **\$1,000.00** must be paid at the Cashier on the Ground Floor of the Administrative Centre, **prior to a Construction Certificate being issued for the development**, in order to ensure compliance with the conditions listed in this consent, and ultimately, preservation of the tree.

The refundable deposit will be eligible for refund following the issue of an Occupation Certificate, subject to completion and submission of Council's 'Security Deposit Refund Application Form', and pending a satisfactory inspection by Council's Landscape Development Officer (9399-0613).

Any contravention of Council's conditions relating to the tree at any time during the course of the works, or prior to the issue of an Occupation Certificate, may result in Council claiming all or part of the lodged security in order to perform any rectification works necessary, as per the requirements of 80A (6) of the Environmental Planning and Assessment Act 1979.

#### **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**

- 17. 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.

**Driveway Design**

18. The gradient of the internal access driveway must be designed and constructed in accordance with AS 2890.1 (2004) – Off Street Car Parking and the levels of the driveway must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate. Refer to Conditions 8 and 9 above.

**BASIX Requirements**

19. 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.

20. Eaves, gutters, hoods and similar structures or attachments are required to be setback from the side boundaries of the allotment a minimum distance of 450mm.

**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**

21. 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**

22. 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**

23. 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 Plan**

24. 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**

25. 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 and Construction Waste Management Plan**

26. A *Demolition and Construction Waste Management Plan* (WMP) must be developed and implemented for the development.

The Waste Management Plan must provide details of the type and quantities of demolition and construction waste materials, proposed re-use and recycling of materials, methods of disposal and details of recycling outlets and land fill sites.

Where practicable waste materials must be re-used or recycled, rather than disposed and further details of Council's requirements including relevant guidelines and pro-forma WMP forms can be obtained from Council's Customer Service Centre or by telephoning Council on 9399 0999.

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.

**Demolition Work Plan**

27. 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

28. 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

29. 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

30. 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**

31. 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**

32. 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**

33. 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**

34. 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**

35. 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**

36. 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.
37. 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.

38. 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**

39. 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**

40. Any openings within or upon the road, footpath, nature strip or in any public place (i.e. for proposed drainage works or installation of services), must be carried out in accordance with the following requirements, to the satisfaction of Council:

- 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.
- Relevant *Road / Asset Opening Permit* fees, repair fees, inspection fees and security deposits, must be paid to Council prior to commencing any works within or upon the road, footpath, nature strip or other public place.

For further information, please contact Council's Road / Asset Opening Officer on 1300 722 542.

**Tree Management**

41. Approval is granted for the removal of all existing vegetation within the subject site, due both to being undesirable environmental weeds, as well as their direct conflict with all aspects of the works as shown, and is subject to full implementation of the approved landscaping:

- a) The *Draceana marginata* (Draceana) on the verge, against the front fence/northern edge of the existing driveway, during works for the new vehicle crossing in this same area as shown;
- b) The group of self-seeded shrubs/small trees about halfway along the length of the northern site boundary, hard up against the northeast corner of the existing dwelling, being three *Phoenix canariensis* (Canary Island Date Palms) and a *Lagunaria patersonii* (Norfolk Island Hibiscus), as all are environmental weeds/undesirable species, and are also in direct conflict with the significant earthworks and new footprint that are shown for this same area of the site;
- c) In the rear setback, along the southern site boundary, beyond the southeast corner of the existing dwelling, the *Metrosideros excelsa* (Pohutakawa), given it is which is an exotic species of no value to the local environment or native fauna, which is also in direct conflict with the pool and pool terrace area, along with the self-seeded *Phoenix canariensis* (Canary Island Date Palm) to its northeast.

**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**

42. 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**

43. 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.

**Swimming Pool Safety**

44. 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 fence having a minimum height of 1.2m, 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 shall be a maximum width of 1 metre, and be self-closing and latching; 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 and Swimming Pools Regulation 2008. Details of compliance are required to be incorporated into the plans and specifications for a Construction Certificate, to the satisfaction of the Certifying Authority.*

**Spa Pool Safety**

45. Spa pools are to be designed and installed in accordance with the relevant provisions of the *Building Code of Australia* and be provided with a child resistant barrier, in accordance with the provisions of the *Swimming Pools Act 1992* and the *Swimming Pools Regulation 2008*.



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.

#### **Swimming Pool & Spa Pool Requirements**

46. 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.

#### **Notification of Swimming Pools & Spa Pools**

47. 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](http://www.swimmingpoolregister.nsw.gov.au).

Registration must be made before the issue of an Occupation Certificate for the pool.

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

48. The owner/developer must meet the full cost for a Council approved contractor to;
- Reconstruct the concrete vehicular crossing and layback at kerb opposite the new vehicular entrance to the site, Council's specifications and requirements.
  - Remove any redundant concrete vehicular crossing and layback and to reinstate the area with concrete footpath, turf and integral kerb and gutter to Council's specification.
49. 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.

#### **Stormwater Drainage**

50. The applicant shall submit to the Principal Certifying Authority (PCA) and Council, certification from a suitably qualified and experienced Hydraulic Engineer confirming that the design and construction of the stormwater drainage system complies with Australian Standard 3500.3:2003 (Plumbing & Drainage- Stormwater Drainage) and the conditions of this development consent.

The certification must be provided following inspection/s of the site stormwater drainage system by the certifying engineers and shall be provided to the satisfaction of the PCA.

51. Prior to issuing any type of Occupation Certificate, certification from a qualified professional in the landscape/horticultural industry must be submitted to, and be approved by, the PCA, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Landscape Plan by Walter Barda Design, dwg A-1900, issue 1, dated 06.12.16.
52. Suitable strategies shall be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.
53. The nature strip upon Council's footway shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu Turf or similar. Such works shall be installed prior to the issue of a final Occupation Certificate.

#### **OPERATIONAL CONDITIONS**

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

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

#### **Use of premises**

54. The premises must only be used as a single residential dwelling and must not be used for dual or multi-occupancy purposes.
55. 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**

56. 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**

57. 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**

58. 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**

59. 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

60. 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.

- 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.
- 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.
- A15 Further information and details on Council's requirements for trees on development sites can be obtained from the recently adopted Tree Technical Manual, which can be downloaded from Council's website at the following link, <http://www.randwick.nsw.gov.au> - Looking after our environment - Trees - Tree Management Technical Manual; which aims to achieve consistency of approach and compliance with appropriate standards and best practice guidelines.

# Development Application Compliance Report



<b>Folder /DA No:</b>	DA/629/2016
<b>PROPERTY:</b>	4 Conway Avenue, RANDWICK NSW 2031
<b>Proposal:</b>	Alterations and additions to the existing dwelling house including new first floor addition, relocation of front entry, new front fence and carport.
<b>Recommendation:</b>	Approval

**CP14/17**

## Relevant Environment Planning Instruments:

### 1. SEPPs

#### **State Environmental Planning Policy No. 55 - Remediation of Land**

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land.

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land. The site contains an existing residential development and has been continuously used for residential purposes for a number of years, and there have been no known potentially contaminating activities undertaken on the site. No further site investigation is warranted in relation to contamination.

### 2. Randwick LEP 2012

The subject site is zoned R2 Low density Residential under Randwick LEP 2012. The proposal development is classified as a dwelling house and is permissible in the zone.

The following Clauses of RLEP 2012 apply to the proposal:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	0.75:1	0.7:1	Yes
Height of Building (Maximum)	9.5m	7.5m	Yes
Lot Size (Minimum)	400 sqm	355 sqm	N/A

#### *Clause 2.7 Demolition*

Any demolition work requires development consent unless it is exempt or complying development in accordance with the Exempt and Complying Development Code 2008. Some minor demolition works have already commenced on site.

#### *Clause 5.9 Preservation of Trees and Vegetation*

The street verge south of the driveway contains a Peppercorn Tree of about 6m in height.

Conditions have been included in the recommended development consent to protect and maintain this tree in the streetscape.

A mature and visually significant Lemon Scented Gum tree is located in the rear yard of the property. A condition has been included in the recommended development consent to ensure the new retaining wall in the rear yard is outside the 2 m structural root zone to ensure the ongoing health of the tree.

#### Clause 5.10 Heritage Conservation

The existing dwelling house on the site is not listed as a heritage item under RLEP 2012, and is not located in a Heritage Conservation Area (HCA). Notwithstanding, it exhibits relatively intact features from the Interwar period and shares similarities with the heritage listed dwellings at 6 and 8 Conway Avenue (Item No. 1320). The impact on the heritage significance of the adjoining item is addressed in Section 5 of the Executive Summary report.

#### Clause 6.2 Earthworks

No significant earthworks will be undertaken on the site.

### 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	Yes
<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	355 sqm (no change to existing)	No
	<b>Minimum frontage</b>		
	i) <b>Min frontage R2 = 12m</b> 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	10m (no change to existing)	No
<b>2.3</b>	<b>Site coverage</b>		
	Up to 300 sqm = 60% <b>301 to 450 sqm = 55%</b> 451 to 600 sqm = 50% 601 sqm or above = 45%	Site = 355 sqm Existing = 144 sqm Proposed = 148.5 sqm or 42%	Yes

DCP Clause	Controls	Proposal	Compliance
<b>2.4</b>	<b>Landscaping and permeable surfaces</b>		
	i) Up to 300 sqm = 20% <b>ii) 301 to 450 sqm = 25%</b> 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 = 355 sqm Proposed = 93 sqm or 26%	Yes
<b>2.5</b>	<b>Private open space (POS)</b>		
	<b>Dwelling &amp; Semi-Detached POS</b>		
	Up to 300 sqm = 5m x 5m <b>301 to 450 sqm = 6m x 6m</b> 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m	Site = 355 sqm Proposed = 6m x 6m	Yes
<b>3</b>	<b>Building envelope</b>		
<b>3.1</b>	<b>Floor space ratio LEP 2012 = 0.75:1</b>	Site area = 355 sqm Existing FSR = 148.5 sqm or 0.42:1 Proposed FSR = 248 sqm or 0.7:1	Yes
<b>3.2</b>	<b>Building height</b>		
	<b>Maximum overall height LEP 2012 = 9.5 m</b>	Existing = 6.8m Proposed = 7.5m	Yes
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	Existing = 3.8 m Proposed = 5.5m	Yes
<b>3.3</b>	<b>Setbacks</b>		
<b>3.3.1</b>	<b>Front setbacks</b>	Existing = 6.5m (ground)  Proposed = 6.5 m (ground) 13.7m (first floor)  The proposed first floor addition will be approximately 2m forward of the first floor addition on the adjoining property to the north (2 Conway Avenue)	Satisfactory  Refer to Section 5 of the Executive Summary Report.
<b>3.3.2</b>	<b>Side setbacks:</b> Dwellings:	Proposed = 900mm at Ground and First Floor	Yes

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> <li>• Frontage less than 9m = 900mm</li> <li>• <b>Frontage b/w 9m and 12m = 900mm (Gnd &amp; 1<sup>st</sup> floor) 1500mm above</b></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>		
3.3.3	<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>	<p>Existing = 9.9m (ground) Proposed = 9.9m (ground) and 8.9m (first floor)</p>	Yes
4	<b>Building design</b>		
4.1	<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 proposed first floor addition would not be readily visible from the street.</p>	<p>Satisfactory</p> <p>Refer to Section 5 of the Executive Summary Report.</p>
4.4	<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</li> </ul>	<p>The new upper roof form repeats the gable and includes a corrugated metal roof finish in a similar colour to existing roof.</p>	Yes



DCP Clause	Controls	Proposal	Compliance
	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.		
<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.)	Proposed First floor addition will be clad with sycon weatherboards and corrugated colourbond roof. Windows will have metal louvre screens.	
<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 earthworks are proposed	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	The main living room at the rear of the dwelling house will receive minimal sunlight in the morning to its rear	Yes

DCP Clause	Controls	Proposal	Compliance
	sunlight between 8am and 4pm on 21 June.	facing glazing. An alternative living room at the front of the dwelling will receive a minimum of 3 hours direct sunlight at the winter solstice.	
	<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 are three windows on the northern elevation of 6 Conway Avenue facing the subject site. The shadow diagrams indicate these windows currently receive no solar access at the winter solstice.  The proposed development will also result in additional overshadowing of the rear private open space.	Satisfactory  Refer to Section 5 of the Executive Summary Report.
<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> </ul>	The proposal will provide good internal amenity in terms of daylight for future occupant.	Yes

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> <li>living rooms contain windows and doors opening to outdoor areas</li> </ul> <p><i>Note:</i> The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</p>		
<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 proposed first floor windows are to bedrooms and therefore not likely to result in any significant overlooking impacts to the adjoining properties. These windows will contain an adjustable louvre screens to mitigate any privacy impacts.	
<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>	An air-conditioning unit is proposed under the front verandah and away from the bedroom window at 6 Conway Avenue.	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 front entry will be relocated and visible from the street.	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	The proposal will not result in any significant view impacts from the adjoining properties.	Yes

DCP Clause	Controls	Proposal	Compliance
	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)		
<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)	One car space will be provided on the site.	Yes
<b>6.2</b>	<b>Parking Facilities forward of front façade alignment (if other options not available)</b>		
	i) - An uncovered single car space - A single carport (max. external width of not more than 3m and - Landscaping incorporated in site frontage ii) Regardless of the site's frontage width, the provision of garages (single or double width) within the front setback areas may only be considered where: - There is no alternative, feasible location for accommodating car parking; iii) Regardless of site's frontage, the forward parking structures are only considered where: - no alternative or feasible location	A single carport will be provided in the front setback.  The former carport in a same location has been demolished.	Yes

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> <li>- Significant slope down to street level</li> <li>- does not adversely affect the visual amenity of the street and the surrounding areas;</li> <li>- does not pose risk to pedestrian safety and</li> <li>- does not require significant contributory landscape elements (such as rock outcrop or sandstone retaining walls)</li> </ul>		
<b>6.3</b>	<b>Setbacks of Parking Facilities</b>		
	<ul style="list-style-type: none"> <li>i) Garages and carports comply with Sub-Section 3.3 Setbacks.</li> <li>ii) 1m rear lane setback</li> <li>iii) Nil side setback where:                             <ul style="list-style-type: none"> <li>- nil side setback on adjoining property;</li> <li>- streetscape compatibility;</li> <li>- safe for drivers and pedestrians; and</li> <li>- Amalgamated driveway crossing</li> </ul> </li> </ul>	The carport will have a 1m setback to the side boundary.	Yes
<b>6.4</b>	<b>Driveway Configuration</b>		
	Maximum driveway width: <ul style="list-style-type: none"> <li>- Single driveway – 3m</li> <li>- Double driveway – 5m</li> </ul> Must taper driveway width at street boundary and at property boundary	Single driveway 3 m wide will be provided.	Yes
<b>6.6</b>	<b>Carport Configuration</b>		
	<ul style="list-style-type: none"> <li>i) Simple post-support design (max. semi-enclosure using timber or metal slats minimum 30% open).</li> <li>ii) Roof: Flat, lean-to, gable or hipped with pitch relates to dwelling</li> <li>iii) 3m maximum width.</li> <li>iv) 5.4m minimum length</li> <li>v) 2.6m maximum height with flat roof or 3.0m max. height for pitched roof.</li> <li>vi) No solid panel or roller shutter door.</li> <li>vii) front gate allowed (minimum 30% open)</li> <li>viii) Gate does not open to public land</li> </ul>	The carport will be simple timber post structure.	Yes
<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>		Yes
<b>7.2</b>	<b>Front Fencing</b>		

DCP Clause	Controls	Proposal	Compliance
	<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>The front fence will range in height between 1-1.5m with brick piers and timber infill</p>	
<b>7.3</b>	<b>Side and rear fencing</b>		
	<ul style="list-style-type: none"> <li>i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m).</li> <li>ii) Fence may exceed max. if level difference between sites</li> <li>iii) Tapper down to front fence height once past the front façade alignment.</li> <li>iv) Both sides treated and finished.</li> </ul>	<p>No details submitted with the application</p>	<p>Can be conditioned</p>
<b>7.6</b>	<b>Air conditioning equipment</b>		
	<ul style="list-style-type: none"> <li>i) Minimise visibility from street.</li> <li>ii) Avoid locating on the street or laneway elevation of buildings.</li> <li>iii) Screen roof mounted A/C from view by parapet walls, or within the roof form.</li> <li>iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings.</li> </ul>	<p>A new airconditioning unit will be provided under the front terrace</p>	<p>Yes</p>

DCP Clause	Controls	Proposal	Compliance
<b>7.7</b>	<b>Communications Dishes and Aerial Antennae</b>		
	i) Max. 1 communications dish and 1 antenna per dwelling. ii) Positioned to minimise visibility from the adjoining dwellings and the public domain, and must be: <ul style="list-style-type: none"> <li>- Located behind the front and below roof ridge;</li> <li>- minimum 900mm side and rear setback and</li> <li>- avoid loss of views or outlook amenity</li> </ul> iii) Max. 2.7m high freestanding dishes (existing).		Can be conditioned
<b>7.8</b>	<b>Clothes Drying Facilities</b>		
	i) Located behind the front alignment and not be prominently visible from the street	Located in the rear yard	Yes

**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 <b>Section 1</b>
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	The environmental impacts of the proposed development on the natural and built environment, have been addressed in this report.  The proposed development would not result in any unreasonable amenity impacts on the surrounding area subject to conditions. 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 site has sufficient area to accommodate the proposed first floor addition. Therefore, the site is considered suitable



Section 79C 'Matters for Consideration'	Comments
<b>Environmental Planning Instruments</b>	
the development	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 submission have been addressed in this report.
Section 79C(1)(e) – The public interest	The proposal is consistent with 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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## 5. Referral Comments

### 5.1 Development Engineer

Council's Development Engineer recommended conditions to ensure the ongoing protection of the existing street tree in front of the site, and the significant Lemon Scented gumtree in the rear yard. These conditions have been included in the recommended development consent. The following comments in relation to the landscape were provided:

*"The inspection of 8 February 2017 revealed a mature Schinus areira (Peppercorn Tree) on the Conway Avenue verge, to the south of the existing driveway, whose true dimensions have been reduced to about 6m in height by 8m across due to heavy and repeated valley pruning around the overhead wires, but is still covered by the DCP.*

*This tree needs to be protected and retained in the streetscape, with conditions describing the protection measures that will be required to ensure this, as well as those which require clearance pruning, wholly at the applicant's cost, prior to commencement, so as to avoid damage/conflict by trucks and similar, having been provided.*

*While the 4m tall Frangipani in the front setback, hard up against the front of the existing house, adjacent the internal hardstand, as well as the mature, 10m tall, twin-trunk Archontophoenix cunninghamiana (Bangalow Palm) immediately to its south, both assist with presentation of the site, they are already exempt from the DCP given their location within 2m of the house, so can be removed as part of works associated with the new entry and front terrace, as has been shown, with the relevant consent provided.*

*Beyond the northeast corner of the existing house, wholly in the rear yard of the adjoining private property to the north, no.2, close to the common boundary, there is a 6m tall Pittosporum 'Variegata' (Variegated Pittosporum) which would not be affected given the footprint and surfacing that already exists in this same area, with the only conditions needed being those that allow minimal pruning of overhanging branches.*

*Back within the rear yard of the subject site, located centrally, and just east of the existing sandstone retaining wall, there is a mature, 6m tall Howea fosteriana (Kentia Palm) of good health and condition which is covered by the DCP, but as it is in direct with the rear extension, its retention will not be possible, with relocation/transplanting not a realistic option in this case, with conditions allowing its removal, along with any of the small screening shrubs across the rear boundary where necessary.*

*To its northeast, along the northern boundary, towards the northeast corner of the subject site, there is a large, mature and visually significant Corymbia citriodora (Lemon Scented Gum) of 20m in height with a canopy spread of around 10m. It is easily the most established specimen at this site, with its canopy clearly visible from the*

street, and was also observed to provide screening, shading, privacy and amenity for both the occupants and several adjoining neighbours, so needs to be retained and incorporated as an existing site feature as part of this application, as has been shown.

It is covered by Council's DCP, is in good health and fair condition, and displays a slight bias to the northwest, towards the dwelling, and despite past pruning, most of its canopy and branching structure is still contained within its northwest aspect.

While the actual location of its trunk and the true extent of its canopy (as per the survey) has not been shown on the architectural plans, measurements taken on-site confirmed that the existing 600-700mm high sandstone retaining wall is about 2200mm to the west of its trunk (to the back of the wall).

The Ground Floor plan, dwg A100, shows a new retaining wall associated with the rear extension/terrace area being constructed a further 700mm to the east, which will reduce the overall offset provided between the wall and the tree to only about 1500mm.

Normal root development in this case would have been altered/restricted/redirected by the existing wall, and importantly, due to its existing lean, all excavations for the new works will be performed wholly on the less critical, compression side of its root plate only.

However, 1500mm is still considered to be a very minimal setback, and combined with the fact that the dwelling will now also encroach closer to the tree, Council is obliged to ensure that the condition and stability of this tree is not compromised in anyway, and for these reasons, conditions require that that portion of the new wall that falls within this trees Structural Root Zone (SRZ), be maintained at the current 2200mm offset, for a radius of 2700mm, whereupon the new wall can then be extended out to its proposed location, with conditions to this effect included in the report.

To avoid this tree becoming exempt from the DCP upon completion, due to its location within 2m of the dwelling, which would then allow its removal (without consent from Council), the rev D plans have confirmed that all physical parts of the building will be located wholly outside of this 2m zone, with a formal condition requiring that this be complied with on-site also 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**

- 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>
Ground Floor Plan A100 Rev D	Georgina Wilson Architect	8 December 2016	8 December 2016
Level 1 Plan A101 Rev D	Georgina Wilson Architect	8 December 2016	8 December 2016
Elevations A200 Rev D	Georgina Wilson Architect	8 December 2016	8 December 2016

Elevations A201 Rev D	Georgina Wilson Architect	8 December 2016	8 December 2016
Roof Plan A110 Rev A	Georgina Wilson Architect	30 August 2016	5 September 2016
Sections A300 Rev A	Georgina Wilson Architect	30 August 2016	5 September 2016
Finishes Schedule A900 Rev A	Georgina Wilson Architect	30 August 2016	5 September 2016

<b>BASIX Certificate No.</b>	<b>Dated</b>	<b>Received by Council</b>
A256348	31 August 2016	5 September 2016

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

The following conditions of consent must be complied with before a 'Construction Certificate' is issued by either 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 the Certifying Authority 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 \$742,000 the following applicable monetary levy must be paid to Council: \$ 7,420.

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:

$$IDC = ODC \times CP2/CP1$$

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

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

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

### Security Deposits

6. 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

7. 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 the Sydney Water [Tap in™](#) online service, 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.

*The Sydney Water Tap in™ online service replaces the Quick Check Agents as of 30 November 2015*

The [Tap in™](#) service provides 24/7 access to a range of services, including:

- Building plan approvals

- Connection and disconnection approvals
- Diagrams
- Trade waste approvals
- Pressure information
- Water meter installations
- Pressure boosting and pump approvals
- Change to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's [Tap in™](https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm) in online service is available at:  
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

The Principal Certifying Authority must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.

#### **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**

8. 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**

9. 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**

10. 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**

11. 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.

### **Building & Design**

12. The external walls of the dwelling must be located not less than 900mm from the site boundary.
13. Eaves, gutters, hoods and similar structures or attachments are required to be setback from the side boundaries of the allotment a minimum distance of 450mm.

### **Design Alignment levels**

14. The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, must be as follows:
  - Match the back of the existing Council footpath levels opposite the new openings.
15. The above alignment levels and the site inspection by Council's Development Engineer have been issued at a prescribed fee of \$159.00 (inclusive of GST). This amount is to be paid prior to a construction certificate being issued for the development.

### **Street Tree Pruning**

16. The applicant must submit a payment of **\$324.50** (including GST) to cover the costs for Council to perform clearance pruning of the *Schinus areira* (Peppercorn Tree) that is located on the Conway Avenue verge, to the south of the vehicle crossing, so as to avoid damage by trucks, machinery, deliveries and similar during the course of construction.

This fee must be paid into **Tree Amenity Income** at the Cashier on the Ground Floor of the Administrative Centre **prior to a Construction Certificate being issued for the development.**

**The applicant must then contact Council's Landscape Development Officer on 9093-6613 (quoting the receipt number), and giving at least four working weeks notice (allow longer for public holidays or extended periods of rain) to arrange for this pruning to be performed, prior to the commencement of any site works.**

**After this, any further enquires regarding scheduling/timing or completion of works are to be directed to Council's North Area Tree Preservation & Maintenance Coordinator on 9093-6858.**



**Street Tree Protection**

17. In order to ensure retention of the *Schinus areira* (Peppercorn Tree) located on the Conway Avenue verge, to the south of the vehicle crossing in good health, the following measures are to be undertaken:
- a. All documentation submitted for the Construction Certificate application must show its retention, with the position and diameter of both its trunk and canopy to be clearly and accurately shown on all plans in relation to the proposed works.
  - b. Any excavations associated with the installation of new services, pipes, stormwater systems or similar over public property can only be located along either of the sites side boundaries; or, against either side of the vehicle crossing, with any hydraulic plans to demonstrate compliance with this requirement.
  - c. This tree is to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing, which shall be located a minimum distance of **1.5 metres** to its north and south (measured off the outside edge of its trunk at ground level), matching up with the back of the kerb to its west, and pedestrian footpath to its east, in order to completely enclose this tree for the duration of works.
  - d. This fencing shall be installed prior to the commencement of demolition and construction 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".
  - e. In order to prevent soil/sediment being washed over its root system, erosion control measures must also be provided at ground level around the perimeter of the TPZ.
  - f. If additional trunk or branch protection is required, this can 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.
  - g. Within the TPZ, 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. The PCA must ensure compliance with all of these requirements, both on the plans as well as on-site during the course of construction, and prior to issuing any type of Occupation Certificate.
  - i. A refundable deposit in the form of cash, credit card or cheque for an amount of **\$1,000.00** must be paid at the Cashier on the Ground Floor of the Administrative Centre, **prior to a Construction Certificate being issued for the development**, in order to ensure compliance with the conditions listed in this consent, and ultimately, preservation of the tree.

The refundable deposit will be eligible for refund following the issue of an Occupation Certificate, subject to completion and submission of Council's 'Security Deposit Refund Application Form', and pending a satisfactory inspection by Council's Landscape Development Officer (9399-0613).

Any contravention of Council's conditions relating to the tree at any time during



the course of the works, or prior to the issue of an Occupation Certificate, may result in Council claiming all or part of the lodged security in order to perform any rectification works necessary, as per the requirements of 80A (6) of the Environmental Planning and Assessment Act 1979.

### Tree Protection Measures

18. In order to also ensure retention of the large *Corymbia citriodora* (Lemon Scented Gum) located in the rear yard, towards the northeast corner of the site in good health, the following measures are to be undertaken:

- a. All documentation submitted for the Construction Certificate application must show its retention, with the position and diameter of both its trunk and canopy to be clearly and accurately shown on all plans in relation to the proposed works.
- b. **All Construction Certificate plans must show that; for a radius of 2700mm, measured from the centre of its trunk at ground level; the terrace retaining wall will be maintained in its current position, as taken from the Detail & Level Survey by True North Surveys, ref 8291, dated 08/06/16.**
- c. **That section of the wall that needs to be returned towards the northern site boundary may be constructed in line with that section of the existing wall that is being maintained.**
- d. **Beyond this 2700mm radius, the new wall may then step out further to the east, and be constructed as per what is shown on the rev D Ground Floor plan, dwg A100.**

**All Construction Certificate plans must be amended to demonstrate compliance with these requirements.**

- e. Any excavations associated with the installation of new services, pipes, stormwater systems or similar in the rear yard must be setback a minimum distance of **3 metres** from its trunk, with all hydraulic plans needing to demonstrate compliance with this requirement.
- f. All physical parts of the dwelling, being vertical wall alignment, gutter, fascia, post or similar, must be offset a minimum distance of 2 metres from its trunk, measured horizontally, at a height of 1 metre above ground level.
- g. All initial excavations associated with demolition of the existing sandstone retaining wall, or, construction of the new wall, within the **2700mm** radius described in point 'b' above, must be performed by hand, to a minimum depth of 600mm.
- h. Where roots are encountered which are in direct conflict with the approved works, they may be cut cleanly by hand (using only hand held tools, not machinery), with the affected area to be backfilled with clean site soil as soon as practically possible.
- i. In the time between when the existing wall is demolished and any new wall is constructed, the exposed soil profile must be supported/shored up so as to prevent collapse of the soil profile and any disturbance to its roots, with a suitable system to be approved by the PCA, prior to installation.
- j. Any new common boundary fencing, within a radius of **3 metres** of its trunk, can only be a system which is supported on localised pad footings, not strip footings, with details confirming compliance to be shown on the Construction Certificate plans.

- f. If roots are encountered during installation of footings for this fencing, the footings must be re-positioned to allow their preservation.
- k. This tree is to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing, which shall be located a minimum distance of **1.5 metres** to its west, **3.5m** to its south (measured off the outside edge of its trunk at ground level), matching up with the northern and eastern site boundaries in order to completely enclose this tree for the duration of works.
- l. This fencing shall be installed prior to the commencement of demolition and construction 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".
- m. Within the TPZ, 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.
- n. Ground levels in the area between the tree, terrace/retaining wall and the eastern and southern boundaries must not be altered by more than 200mm, with no other structures such as continuous strip footings, planter boxes or similar to be located in this area, which must remain as undisturbed, deep soil.
- o. The PCA must ensure compliance with all of these requirements, both on the plans as well as on-site during the course of construction, and prior to issuing any type of Occupation Certificate.

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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**

19. 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**

20. 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**

21. 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 Plan**

22. 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

23. 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

24. 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**

25. 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**

26. 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**

27. 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**

28. 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-	<ul style="list-style-type: none"> <li>Monday to Friday - 8.00am to 5.00pm</li> </ul>

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

### **Demolition Work Requirements**

29. 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**

30. 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**

31. 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**

32. 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**

33. 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.

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

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

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

35. 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**

36. 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**

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

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

### **Tree Management**

38. Approval is granted for removal of the following trees:

- a) The Frangipani in the front setback, between the existing house and southern side of the internal hardstand, as well as the mature *Archontophoenix cunninghamiana* (Bangalow Palm) immediately to its south, where necessary to accommodate works associated with the new front entry/terrace in this same area as shown, as both are already exempt from Council's DCP due to their location within 2m of the dwelling;
- b) The *Howea fosteriana* (Kentia Palm) located centrally in the rear yard, just to the east of the existing sandstone wall, so as to accommodate the rear extension/terrace and new retaining wall in this same area as shown.

### Pruning

9. Permission is granted for the minimal and selective pruning of:
  - a) The southern aspect of the *Pittosporum 'Variegata'* (Variegated Pittosporum) which is located in the rear setback of the adjoining private property to the north, no.6, close to the common boundary, only where necessary to provide a clearance from the approved works as shown;
  - b) Those lower growing, lower order branches from the western aspect of the large *Corymbia citriodora* (Lemon Scented Gum) that is located in the rear yard of the subject site, towards the northeast corner, only where needed in order in order to avoid damage to the tree; interference with the approved rear extension/first floor; or; to assist with balancing its form.
10. This approval does not imply any right of entry onto a neighbouring property nor does it allow pruning beyond a common boundary; however, where such measures are desirable in the best interests of correct pruning procedures, and ultimately, the ongoing health of the tree, the applicant must negotiate with the neighbour/tree owner for access to perform this work.
11. All pruning can only be performed 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).

### 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

39. 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**

40. 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**

41. 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.

**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 space within the development are for the exclusive use of the occupants of the building. The car space 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.

#### **Air Conditioners**

46. 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**

47. 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.

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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