

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

**MINUTES OF PLANNING COMMITTEE MEETING OF THE
COUNCIL OF THE CITY OF RANDWICK HELD ON
TUESDAY, 9 MAY 2017 AT 6:12PM**

Present:

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

- | | |
|--------------|---|
| North Ward | - Councillors K Neilson, L Shurey & K Smith |
| South Ward | - Councillors R Belleli & P Garcia |
| East Ward | - Councillors T Bowen, M Matson & B Roberts (Deputy Chairperson) (arrived 6.20pm) |
| West Ward | - Councillors G Moore, S Nash (arrived 7.04pm) & H Stavrinou (Chairperson) |
| Central Ward | - Councillors A Andrews, T Seng & G Stevenson |

Officers present:

| | |
|--|-----------------|
| General Manager | Mr R Brownlee |
| Director City Services | Mr J Frangoules |
| Director City Planning | Ms S Truuvet |
| Director Governance & Financial Services | Mr J Smith |
| Manager Development Assessment | Mr K Kyriacou |
| Senior Administrative Coordinator | Ms J Hartshorn |
| Communications Manager | Mr J Hay |
| Executive Manager | Mr L Fitzgerald |
| Manager Performance Improvement | Ms A Warner |

Apologies/Granting of Leave of Absences

Nil.

Confirmation of the Minutes

**CONFIRMATION OF THE MINUTES OF THE PLANNING COMMITTEE MEETING
HELD ON TUESDAY 11 APRIL 2017**

PL35/17

RESOLUTION: (Smith/Andrews) that the Minutes of the Planning Committee Meeting held on Tuesday 11 April 2017 (copies of which were circulated to all Councillors) be and are hereby confirmed as a correct record of the proceedings of that meeting.

Declarations of Pecuniary and Non-Pecuniary Interests

- a) Cr Belleli declared a non-significant non pecuniary interest in Item D41/17 as his wife teaches dancing at various Child Care Centre throughout the city.
- b) Cr Garcia declared a pecuniary interest in Item D38/17 as he lives and owns a property in close proximity. Cr Garcia indicated that he would not take part in the debate or the vote on the matter.
- c) Cr Neilson declared a non-significant non pecuniary interest in Item D39/17 as some of the objectors are known to her.
- d) Cr Neilson declared a non-significant non pecuniary interest in Item D40/17 as some of the objectors are known to her.
- e) Cr Stavrinou declared a non-significant non pecuniary interest in Item D41/17 as a number of the objectors are known to him.
- f) Cr Andrews declared a non-significant non pecuniary interest in Item D41/17 as some of the objectors are known to him.
- g) Cr Roberts declared a significant non pecuniary interest in Item D41/17 as he lives in close proximity to the proposal. Cr Roberts indicated that he would not take part in the debate or the vote on the matter.

Address of Council by Members of the Public

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

D39/17 1 COOGEE STREET, RANDWICK (DA/555/2016)

Objector Ms Cherie Moloney

Applicant Mr Spiro Raissis

D40/17 34 MILFORD STREET, RANDWICK (DA/505/2014/B)

Objector Ms Therese Fletcher

Applicant Mr John Mavrodontidis

D41/17 27 DUNCAN STREET, MAROUBRA (DA/234/2016)

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

Objector Ms Gai Hilton

Applicant Ms Theresa Fearn

The meeting was adjourned at 6.45pm and was resumed at 7.04pm.

Urgent Business

Nil.

Development Application Reports

D38/17 Development Application Report - 286A Rainbow Street, Coogee (DA/883/2016)

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

PL36/17

RESOLUTION: (Andrews/Matson) that Council, as the consent authority, grants development consent under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/883/2016 for alterations and additions to the existing dwelling, including a new first floor addition, at No. 286A Rainbow Street, Coogee, subject to the following non standard conditions and the standard conditions contained in the development application compliance report attached to this report:

Non standard conditions

Amendment of Plans & Documentation

1. The approved plans and documents must be amended in accordance with the following requirements:
 - a. A construction management plan is to be provided to Council prior to the issue of a Construction Certificate. Details are to be provided in relation to the maintenance of the dividing wall and waterproofing of the roof which extends between the subject site and the adjoining semi-detached dwelling at 286 Rainbow Street. Such details are to be to the satisfaction of the Principal Certifying Authority
 - b. Fixed, external louvres facing northwards are to be provided off the main bedroom on the first floor to minimise any direct overlooking to the east and west.

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

Cr Garcia returned to the meeting at this point (7.05pm).

D39/17 Development Application Report - 1 Coogee Street, Randwick (DA/555/2016)

PL37/17

RESOLUTION: (Matson/Roberts) that the application be deferred for mediation.

MOTION: (Matson/Roberts) CARRIED - SEE RESOLUTION.

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

| FOR | AGAINST |
|----------------------|--------------------|
| Councillor Belleli | Councillor Andrews |
| Councillor Bowen | Councillor Moore |
| Councillor D'Souza | |
| Councillor Garcia | |
| Councillor Matson | |
| Councillor Nash | |
| Councillor Neilson | |
| Councillor Roberts | |
| Councillor Seng | |
| Councillor Shurey | |
| Councillor Smith | |
| Councillor Stavrinou | |
| Councillor Stevenson | |
| Total (13) | Total (2) |

D40/17 Development Application Report - 34 Milford Street, Randwick (DA/505/2014/B)

PL38/17

RESOLUTION: (Andrews/Smith) that Council, as the consent authority, grants

consent under Section 96 of the Environmental Planning and Assessment Act 1979, as amended, to modify Development Consent No. DA/505/2014/B by the provision of an additional bedroom and increasing the size of bathroom, plus basement retaining changes. The consent is modified in the following manner:

- **Amend Condition 1 to read:**

“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:

| Plan | Drawn by | Dated | Received by Council |
|---|------------------|--------------|----------------------------|
| DA03 C | MHN Design Union | 08.09.2014 | 08.09.2014 |
| DA04 C | MHN Design Union | 08.09.2014 | 08.09.2014 |
| DA05 C | MHN Design Union | 08.09.2014 | 08.09.2014 |
| DA06 C | MHN Design Union | 08.09.2014 | 08.09.2014 |
| DA07 C | MHN Design Union | 08.09.2014 | 08.09.2014 |
| DA08 C | MHN Design Union | 08.09.2014 | 08.09.2014 |
| DA09 C | MHN Design Union | 05.09.2014 | 05.09.2014 |
| DA10 C | MHN Design Union | 05.09.2014 | 08.09.2014 |
| DA11 C | MHN Design Union | 05.09.2014 | 08.09.2014 |
| DA12 C | MHN Design Union | 05.09.2014 | 08.09.2014 |
| DA018A | MHN Design Union | 08.09.2014 | 08.09.2014 |
| Draft Strata Plan Sheets 1 of 5 to 5 of 5 Issue A | Eric Scerri | Undated | 30 July, 2014 |

| BASIX Certificate No. | Dated | Received by Council |
|------------------------------|---------------|----------------------------|
| 551063M_03 | 24 July, 2014 | 30 July, 2014 |

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

| Plan | Drawn by | Dated |
|---|------------------|----------------------------|
| DA04 D2 | MHN Design Union | 24/4/2015 |
| Plan | Drawn by | Received by Council |
| Draft Strata Plan Sheets 1 of 5 to 5 of 5 Issue A | Eric Scerri | 12/06/2015 |

As further amended by the Section 96 “B” plans and supporting documentation listed below:

| Plan | Drawn by | Dated |
|---|------------------|------------------|
| S96-010(E) | MHN Design Union | 15 August 2016 |
| S96-02(E) | MHN Design Union | 15 August 2016 |
| S96-03EA) | MHN Design Union | 15 August 2016 |
| S96-04(E) to | MHN Design Union | 15 August 2016 |
| S96-08(C) | MHN Design Union | 15 August 2016 |
| S96-09(E) | MHN Design Union | 15 August 2016 |
| S96-11(E) to S96-12(E) | MHN Design Union | 15 August 2016 |
| Draft Strata Plan Sheets 1 to 5 Issue C | Eric Scerri | 2 September 2016 |

| BASIX Certificate No. | Dated |
|------------------------------|--------------|
| | |

804484M

15 March 2017

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

Amend Condition 11b to read:

- The Construction Certificate plans must show that the western wall of the proposed basement level will finish at a minimum offset of 2900mm from the western site boundary.

- **Amend Condition 69 to read:**

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 Zenith Landscape Designs, dwg 14-2828 L01, dated 27.5.14, **with this Plan also needing to have been revised (where necessary) so as to be consistent with those changes that have been made to the Amended S96 Architectural Plans by MHN DUNION, dated 15-08-16, by condition 11b with particular emphasis on the reduced amount of deep soil along the western boundary.**

Add Condition 86

- Consent is not granted for the additional basement floor area and associated western basement wall changes shown on sheet S96-02(E) dated 15 August 2016, except for the work labelled "Zone for Retaining Structure". Details of the basement layout and retaining shall be provided to and approved by the Council's Development Engineering team prior to the preparation of construction certificate.

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

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

| FOR | AGAINST |
|----------------------|--------------------|
| Councillor Andrews | Councillor Garcia |
| Councillor Bellei | Councillor Neilson |
| Councillor Bowen | Councillor Seng |
| Councillor D'Souza | Councillor Shurey |
| Councillor Matson | |
| Councillor Moore | |
| Councillor Nash | |
| Councillor Roberts | |
| Councillor Smith | |
| Councillor Stavrinou | |
| Councillor Stevenson | |
| Total (11) | Total (4) |

D41/17 Development Application Report - 27 Duncan Street, Maroubra (DA/234/2016)

Note: a Rescission Motion in relation to this matter was submitted by Councillors Seng, Andrews and Stavrinou in accordance with Council's Code of Meeting Practice and will be considered at the Ordinary Council Meeting to be held on 23 May 2017.

Note: Having previously declared an interest, Cr Roberts left the chamber

and took no part in the debate or voting on this matter.

PL39/17

RESOLUTION: (Smith/Matson) that Council, as the consent authority, change its determination of Development Application No. 234/2016 for alterations and additions to the existing building, fencing with associated works and conversion to childcare centre catering 24 children, at No. 27 Duncan Street, Maroubra by granting development consent, subject to the following conditions and the standard conditions contained in the development application compliance report attached to this report:

GENERAL CONDITIONS

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

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

Approved Plans & Supporting Documentation

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

| Plan | Drawn by | Dated | Received by Council |
|----------------|-----------------|--------------|----------------------------|
| SK005 Rev J | Unknown | 12.10.16 | 23 December 2016 |
| SK006 Rev A | | 14.03.16 | 7 November 2014 |
| SK007 Rev C | | 13.02.17 | 14 February 2017 |
| SLP 01 Issue A | Hugh Burnett | 1 July 2016 | 23 December 2016 |

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. The afterhours use and weekend use shall be deleted from the development. An amended Plan of Management shall be submitted to Council for approval prior to a Construction Certificate being issued for the development.
 - b. The number of child places at the childcare centre shall be restricted to a maximum of 24.
 - c. The art area in the outbuilding shall be deleted and replaced with a car space as shown on the architectural plan SK005 Rev J received by Council
 - d. Any necessary approvals must be obtained from Department of Community Services and any other relevant authorities relating to the requirements for the operation and management of the Child Care Centre.
 - e. Children are required to exit the vehicle from the kerb side of the vehicle.
 - f. A 1m deep landscape buffer shall be installed along the Duncan Street frontage excluding access paths. Details shall be included in the approved landscape plan to the satisfaction of the Principal Certifying Authority.

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.

Long Service Levy

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

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

Sydney Water Requirements

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

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

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

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

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

Details of the procedures and arrangements for the on-going waste management of the child care centre including collection, storage and removal of waste and recycling of materials shall be submitted to Council's manager of Waste prior to a Construction certificate being issued for the development.

6. Details of the procedures and arrangements for the on-going waste management of the child care centre including collection, storage and removal of waste and recycling of materials shall be submitted to Council's manager of Waste prior to a Construction certificate being issued for the development.

Security Deposit

7. The following damage / civil works security deposit requirement must be complied with as security for making good any damage caused to the roadway, footway, verge or any public place; and as security for completing any public work; and for remedying any defect on such public works, in accordance with

section 80A(6) of the *Environmental Planning and Assessment Act 1979*:

- \$2000.00 - 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, must match the back of the existing footpath along the full site frontage.

The design alignment level/s at the property boundary as issued by Council and their relationship to the footpath must be indicated on the building plans for the construction certificate (a construction note is considered satisfactory). The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.

Any enquiries regarding this matter should be directed to Council's Development Engineer on 9093 6881.

9. The above alignment levels and the site inspection by Council's Development Engineer have been issued at a prescribed fee of \$155.00 (inclusive of GST). This amount is to be paid prior to a construction certificate being issued for the development.

Stormwater Drainage

10. Surface water/stormwater (from the redeveloped portion of the site) must be drained and discharged to the street gutter or suitably designed absorption pit, to the satisfaction of the Certifying Authority and details are to be included in the construction certificate application for the development.

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.

Sydney Water

11. 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™ 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.

Building Code of Australia & Fire Safety

12. In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA). Details of compliance are to be provided in the construction certificate.
13. All new building work (including alterations, additions, fit-out work and fire safety works are to be carried out in accordance with the relevant provisions of the Building Code of Australia (BCA) and details are to be included in the Construction Certificate, to the satisfaction of the Certifying Authority.

Access & Facilities

14. Access and/or facilities for people with disabilities must be provided to all new building work in accordance with any relevant provisions of the Building Code of Australia Disability (Access to Premises – Buildings) Standards 2010, to the satisfaction of the Certifying Authority and details are to be provided with the Construction Certificate application.

Public Utilities

15. A *Public Utility Impact Assessment* must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.
16. The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the

service authority.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

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

Certification, PCA & other Regulatory Requirements

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

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

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

- b) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
- c) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
- d) at least two days' notice must be given to the Council, in writing, prior to commencing any works; and
- e) the relevant requirements of the *Home Building Act 1989* (as applicable) must be complied with and details provided to the *Principal Certifying Authority* and Council.

Demolition Work & Removal of Asbestos Materials

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

- a) Demolition work must be carried out in accordance with Australian Standard, AS2601 (2001) - The Demolition of Structures and a Demolition Work Plan is required to be developed and implemented to the satisfaction of the *Principal Certifying Authority* prior to commencing any demolition works.
- b) The demolition, removal, storage and disposal of any materials containing asbestos must be carried out in accordance with the relevant requirements of WorkCover NSW, Council's Asbestos Policy and the following requirements:
- A licence must be obtained from WorkCover NSW for the removal of friable asbestos and or more than 10m² of bonded asbestos (i.e. fibro)
 - Asbestos waste must be disposed of in accordance with the

Protection of the Environment Operations Act 1997 & relevant Regulations

- A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress"
- A Clearance Certificate or Statement must be obtained from a suitably qualified person (i.e. Occupational Hygienist) upon completion of the asbestos removal works, which is to be submitted to the Principal Certifying Authority and Council prior to issuing an Occupation Certificate.

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

Construction Noise & Vibration

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

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

A Construction Noise and Vibration Management Plan, prepared in accordance with the DECC Construction Noise Guideline, by a suitably qualified person is to be developed and implemented throughout the works, to the satisfaction of the Council. A copy of the plan must be provided to the Council and Principal Certifying Authority prior to the commencement of site works.

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.

Road / Asset Opening Permit

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

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

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

Building Inspection Requirements

21. The works must be inspected by the *Principal Certifying Authority*, in accordance with sections 109 E (3) of the *Environmental Planning & Assessment Act 1979* and clause 162A of the *Environmental Planning &*

Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

Excavations & Support of Adjoining Land

22. 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.
23. 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 are to 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.

Retaining walls, shoring, or piling must be designed and installed in accordance with appropriate professional standards and the relevant requirements of the Building Code of Australia and Australian Standards. Details of proposed retaining walls, shoring or piling are to be submitted to and approved by the Principal Certifying Authority for the development prior to commencing such excavations or works.

Permitted Working Hours

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

| Activity | Permitted working hours |
|---|---|
| All building, demolition and site work, including site deliveries (except as detailed below) | <ul style="list-style-type: none"> Monday to Friday - 7.00am to 5.00pm Saturday - 8.00am to 5.00pm Sunday & public holidays - No work permitted |
| Excavating of rock, use of jack-hammers, pile-drivers or the like | <ul style="list-style-type: none"> Monday to Friday - 8.00am to 5.00pm Saturday - No work permitted Sunday & public holidays - No work permitted |
| Internal work only within a commercial or industrial development, located in a commercial or industrial zone, which is not audible within any residential dwelling or commercial or industrial premises | <ul style="list-style-type: none"> Monday to Saturday - No time limits (subject to column 1) Sunday & public holidays - No work permitted |
| Additional requirements for all development (except for single residential dwellings) | <ul style="list-style-type: none"> Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted |

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

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

Construction Site Management

25. Public health, safety and convenience must be maintained at all times during demolition and building works and the following requirements must be complied with at all times:

- a) A sign must be provided and maintained in a prominent position throughout the works, which contains the following details:
 - name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
 - name, address and telephone number of the *Principal Certifying Authority*,
 - a statement stating that "unauthorised entry to the work site is prohibited".
- b) The roadway, footpath and nature strip must be maintained in a good, safe condition and free from any obstructions, trip hazards, materials, soils or debris at all times. Any damage caused to the road, footway or nature strip must be repaired immediately, to the satisfaction of Council.
- c) Building materials, sand, soil, waste materials, construction equipment or other materials or articles must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.
- d) Bulk bins, waste containers or other articles must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container or other articles in a public place can be made to Council's Building Services section.
- e) During demolition and construction, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom, to the satisfaction of Council.

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

- f) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding (having a minimum height of 1.5m) is to be provided to protect the public.

Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible. If necessary, an overhead (B Class type) hoarding may be required to protect the public or occupants of the adjoining premises from falling articles or materials.

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

- g) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
- h) A Road / Asset Opening application must be submitted to and be approved by Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with.

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

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.

- 26. A report, prepared by a suitably qualified and experienced consultant in acoustics, shall be submitted to the Council **prior to an occupation certificate** being issued for the development, which demonstrates and certifies that noise and vibration from the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW EPA Noise Control Manual & Industrial Noise Policy, Council's conditions of consent (including any relevant approved acoustic report and recommendations), to the satisfaction of Council. The assessment and report must include all relevant fixed and operational noise sources.
- 27. The food premises must be registered with Council's Health, Building & Regulatory Services department and inspected by Council's Environmental Health Officer in accordance with the Food Act 2003, prior to commencement of any food preparation and service.

Occupation Certificate Requirements

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

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

Fire Safety Certificate Requirements

29. Prior to issuing an interim or final Occupation Certificate, a single and complete *Fire Safety Certificate*, encompassing all of the essential fire safety measures contained in the *fire safety schedule* must be obtained and be submitted to Council, in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000*. The *Fire Safety Certificate* must be consistent with the *Fire Safety Schedule* which forms part of the Construction Certificate.

A copy of the *Fire Safety Certificate* must be displayed in the building entrance/foyer at all times and a copy of the *Fire Safety Certificate* and *Fire Safety Schedule* must also be forwarded to Fire & Rescue NSW.

Noise Emissions - Certification

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

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

Council's Infrastructure, Vehicular Crossings, street verge

31. The applicant must meet the full cost for Council or a Council approved contractor to:
- a) Construct new concrete vehicle crossing opposite the vehicle entrance to the site
 - b) Install signage for a timed pickup and drop-off zone along the site frontage on Duncan street strictly in accordance with the approval by Randwick Traffic Committee (at its March 2017 meeting).
32. 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 (including street trees), 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.
33. 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 "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:

- a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
 - b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
 - c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.
34. That part of the nature strip upon Council's footway which is damaged during the construction of the proposed works 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 completed at the applicants expense.

Bicycle Parking

35. Bike storage facilities shall be provided on the site at suitable location large enough to accommodate a minimum of 2 bicycle spaces in accordance with AS 2890.3.

Travel Plan

36. The Plan of Management of the childcare centre shall include a Workplace Travel Plan which endeavours to minimise the parking and traffic generation of the proposed development; The plan may include but not be limited to aspects such as support for walking and cycling, car sharing, management of workplace parking spaces, & incentives for public transport use.

The Travel Plan shall be submitted to and approved by Council's Department of integrated Transport prior to issuing of an occupation certificate.

Landscape & Playspace Certification

37. Prior to issuing any type of Occupation Certificate, certification must be provided confirming the date the site was inspected, and that both the landscaping (planting) and play-space have been completed and installed in accordance with the approved plans and relevant conditions of consent and Australian Standards.

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.

38. The use and operation of the child care centre is to be undertaken in accordance with the requirements as outlined in the noise assessment submitted with the application namely "Yogicubs at 27 Duncan St, Maroubra. Report No. 16126 Version D. Dated December 2016" prepared by Wilkinson Murray (our reference D02838844).
39. The hours of the operation of the child care centre are restricted to:-
- Monday through to Friday, inclusive from: 7.00am to 6.00pm
 - No operations permitted on weekends and public holidays
40. The use and operation of the premises shall not give rise to an environmental health or public nuisance.
41. There are to be no emissions or discharges from the premises which give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.
42. The premises is to be designed, constructed and operated in accordance with the *Food Act 2003*, *Food Regulation 2010*, Australia & New Zealand Food Standards Code and Australian Standard AS 4674-2004, Design, construction and fit-out of food premises.
43. Food safety practices and operation of the food premises must be in accordance with the *Food Act 2003*, *Food Regulation 2010*, *Food Standards Code* and Food Safety Standards at all times, including the requirements and provisions relating to:
- Food handling – skills, knowledge and controls.
 - Health and hygiene requirements.
 - Requirements for food handlers and businesses.
 - Cleaning, sanitising and maintenance.
 - Design and construction of food premises, fixtures, fitting and equipment.

A failure to comply with the relevant food safety requirements is an offence and may result in legal proceedings, service of notices and/or the issuing of on-the-spot penalty infringement notices.

Fire Safety Statements

44. A single and complete *Fire Safety Statement* (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the *Environmental Planning & Assessment Regulation 2000*.

The *Fire Safety Statement* must be provided on an annual basis, each year following the issue of the *Fire Safety Certificate* and other period if any of the fire safety measures are identified as a *critical fire safety measure* in the *Fire Safety Schedule*.

The *Fire Safety Statement* is required to confirm that all the fire safety measures have been assessed by a properly qualified person and are operating in accordance with the standards of performance specified in the *Fire Safety Schedule*.

A copy of the *Fire Safety Statement* must be displayed in the building entrance/foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.

45. A validation report must be obtained from a suitably qualified and experienced consultant in acoustics three (3) months after the business commences trading. The report should demonstrate and certify that noise and vibration from the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Office of Environment & Heritage/Environment Protection Authority Noise Control Manual & Industrial Noise Policy and conditions of Council's development consent.

The report is to be forwarded to and approved by Council. This report must address (but not limited to) the accumulation effect of mechanical plant and equipment and noise generated from all children in the outdoor play area. Any recommendations outlined in the acoustic report are to be implemented in accordance with the report.

Environmental Amenity

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

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

Waste Management

48. Adequate provisions are to be made within the premises for the storage, collection and disposal of trade/commercial waste and recyclable materials, to the satisfaction of Council.

Any trade/commercial waste materials must not be disposed in or through Council's domestic garbage service. All trade/commercial waste materials must be collected by Council's Trade Waste Service or a waste contractor authorised by the Waste Service of New South Wales and details of the proposed waste collection and disposal service are to be submitted to the Principal Certifying Authority and Council prior to commencing operation of the business.

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

ADVISORY NOTES

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

- A1 The requirements and provisions of the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000*, must be

fully complied with at all times.

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

A2 In accordance with the requirements of the *Environmental Planning & Assessment Act 1979*, building works, including associated demolition and excavation works (as applicable) must not be commenced until:

- 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.

A3 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.

A4 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA), Disability (Access to Premises – Buildings) Standards 2010 and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards. You are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.

A5 The assessment of this development application does not include an assessment of the proposed building work under the Food Act 2003, Food Safety Standards or Building Code of Australia (BCA).

All new building work must comply with relevant regulatory requirements and Australian Standards and details of compliance are to be provided in the *construction certificate* application.

A6 The design and construction of the premises must satisfy the requirements of the Food Act 2003, Food Standards Code and AS 4674 (2004). Prior to finalising the design and fit-out for the development and prior to a *construction certificate* being obtained, advice should be obtained from an accredited Food Safety Consultant (or Council's Environmental Health Officer).

A7 The applicant and operator are also advised to engage the services of a suitably qualified and experienced Acoustic consultant, prior to finalising the design and construction of the development, to ensure that the relevant noise criteria and conditions of consent can be fully satisfied.

A8 Any proposed amendments to the design and construction of the building may require a new development application or a section 96 amendment to the existing consent to be obtained from Council, before carrying out such works

A9 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).

A10 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.

A11 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 in a public place.

For further information please contact Council on 9399 0944.

A12 There are to be no emissions or discharges from the premises, which will give rise to an environmental or public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.

A13 In existing buildings, where necessary, the levels of fire and occupant safety should be upgraded and details should be incorporated in the Construction Certificate to the satisfaction of the Certifying authority.

Building owners, applicants and builders are advised to liaise with the appointed Certifying Authority prior to lodgement of the Construction Certificate.

A14 A separate development application and construction certificate or a complying development certificate (as applicable) must be obtained if the premises is to be used for any of the purposes detailed below:

- All food businesses (including premises used for the sale, storage, preparation and distribution of food and drinks)
- Hairdressing salons, Beauty salons, Businesses involving Skin Penetration & Piercing, Massage businesses
- Licensed premises, places of public entertainment and hotels
- Places of Shared Accommodation (including Boarding / Lodging Houses, Bed & Breakfast businesses, Backpackers, Residential Hotels or the like)
- Cooling Towers or Warm Water Systems
- External plant and equipment which is not encompassed in the development consent
- Business providing any form of sexual service (i.e. brothel or the like).

Business premises which are used for any of these purposes must comply with relevant public health and safety legislation and requirements and they must be registered with Council prior to an Occupation Certificate being issued for the development. The relevant registration and inspection fee is also required to be paid to Council in accordance with Council's adopted Pricing Policy.

- A15 The applicant/owner is advised to engage the services of a suitably qualified and experienced Acoustic consultant, prior to finalising the design and construction of the development, to ensure that the relevant noise criteria and conditions of consent can be fully satisfied.
- A16 Underground assets (e.g. 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 or telephone on 1100 before excavating or erecting structures (This is the law in NSW). 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.
- A17 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.
- A18 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.

MOTION: (Smith/Matson) CARRIED - SEE RESOLUTION.

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

| FOR | AGAINST |
|--------------------|----------------------|
| Councillor Belleli | Councillor Andrews |
| Councillor Bowen | Councillor Neilson |
| Councillor D'Souza | Councillor Seng |
| Councillor Garcia | Councillor Shurey |
| Councillor Matson | Councillor Stavrinou |
| Councillor Moore | Councillor Stevenson |
| Councillor Nash | |
| Councillor Roberts | |
| Councillor Smith | |
| Total (9) | Total (6) |

Miscellaneous Reports

Nil.

Notice of Rescission Motions

Rescission Motion

A Rescission Motion in relation to Item D41/17 (Development Application Report - 27 Duncan Street, Maroubra) was submitted by Councillors Seng, Andrews and Stavrinou in accordance with Council's Code of Meeting Practice and will be considered at the Ordinary Council Meeting to be held on 23 May 2017.

The meeting closed at 7.15pm.

The minutes of this meeting were confirmed at the Planning Committee Meeting of the Council of the City of Randwick held on Tuesday, 13 June 2017.

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CHAIRPERSON