

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, 13 JUNE 2017 AT 6:05PM**

Present:

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

North Ward	- Councillors K Neilson, L Shurey & K Smith (arrived 6.48pm)
South Ward	- Councillors R Belleli & P Garcia
East Ward	- Councillors M Matson & B Roberts (Deputy Chairperson) (arrived 6.23pm)
West Ward	- Councillors G Moore, S Nash & H Stavrinou (Chairperson)
Central Ward	- Councillors T Seng & G Stevenson (arrived 6.16pm)

Officers present:

General Manager	Mr R Brownlee
Director City Services	Mr J Frangoplos
Director City Planning	Ms S Truuvert
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

Apologies/Granting of Leave of Absences

Apologies were received from Crs Andrews and Bowen.

RESOLVED: (Neilson/Shurey) that the apologies received from Crs Andrews and Bowen be accepted and leave of absences from the meeting be granted.

Confirmation of the Minutes

**CONFIRMATION OF THE MINUTES OF THE PLANNING COMMITTEE MEETING
HELD ON TUESDAY 9 MAY 2017**

RESOLUTION: (Belleli/Garcia) that the Minutes of the Planning Committee Meeting held on Tuesday 9 May 2017 (copies of which were circulated to all Councillors) be

PL40/17

and are hereby confirmed as a correct record of the proceedings of that meeting.

Declarations of Pecuniary and Non-Pecuniary Interests

- a) Cr Matson declared a significant non pecuniary interest in Item D52/17 as he is close friends with a family that lives two properties away from the proposal. Cr Matson indicated that he would not take part in the debate or the voting 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:

D42/17 14 ALEXANDRIA PARADE, SOUTH COOGEE (DA/854/2016)

Objector Mr George Sassine

D43/17 1159 ANZAC PARADE, MATRAVILLE (DA/795/2016)

Objector Ms Lyndelle Morgan

Applicant Mr Mo Shahrokhian (representing the applicant)

D45/17 71 COOGEE BAY ROAD, RANDWICK (DA/564/2016)

Objector Ms Susan Coorey

Applicant Mr Greg Vankuyk

D46/17 87-89 FRENCHMANS ROAD, RANDWICK (DA/439/2016)

Objector Mr Terry Toaldo

Applicant Mr Julian Brenchley

D47/17 28 GREVILLE STREET, CLOVELLY (DA/124/2017)

Objector Mr Adam McCarthur

Applicant Mr Brad Inwood (representing the applicant)

D48/17 48 CHESTER AVENUE, MAROUBRA (DA/859/2016)

Applicant Mr Mo Shahrokhian (representing the applicant)

D49/17 19 HOWARD STREET, RANDWICK (DA/177/2016/A)

Applicant Mr Anthony Betros (representing the applicant)

D50/17 173 GALE ROAD, MAROUBRA (DA/845/2016)

Applicant Mr Mark Swain (representing the applicant)

D51/17 225 RAINBOW STREET, RANDWICK (DA/912/2016)

Applicant Ms Larissa Ozog (representing the applicant)

D52/17 91 PEROUSE ROAD, RANDWICK (DA/940/2016)

Applicant Ms Corralie Chen

M2/17 IMPACTS OF THE AHSEPP WITHIN SUBURBS OF RANDWICK CITY

For Mr Kim Reddin

The meeting was adjourned at 7.33pm and was resumed at 7.51pm.

Urgent Business

Nil.

Development Application Reports

D42/17 Development Application Report - 14 Alexandria Parade, South Coogee (DA/854/2016)

PL41/17

RESOLUTION: (Shurey/Neilson) that Council, as the consent authority, refuses development consent under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 854/2016 for the demolition of the existing structures and construction of a part 2/part 3 storey dwelling house with semi-basement garage, in ground swimming pool and associated site and landscape works, at No. 14 Alexandria Parade, South Coogee, for the following reasons:

1. The proposal does not satisfy the following objectives of the R2: Low Density Residential zone:
 - 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.
2. The proposal does not satisfy the Clause 6.7: Foreshore Scenic Protection Areas of the Randwick Local Environmental Plan 2012 in that the development will detract the scenic quality of the coastal foreshore area.
3. The proposal exceeds the maximum building height of 9.5 metres specified in Clause 4.3 of Randwick Local Environmental Plan 2012 and the Clause 4.6 variation to the development standard is not well founded.
4. The proposal exceeds the maximum floor space ratio of 0.65:1 specified in Clause 4.4 of Randwick Local Environmental Plan 2012 and the Clause 4.6 variation to the development standard is not well founded.
5. The proposal does not satisfy the objectives or controls for Site Coverage set-out in Clause 2.3 of the Randwick Development Control Plan 2013, Part C1.
6. The proposal does not satisfy the objectives or controls for Landscaping and Permeable Surfaces set-out in Clause 2.4 of the Randwick Development Control Plan 2013, Part C1.
7. The proposal does not satisfy the objectives or controls for Building Height set-out in Clause 3.2 of the Randwick Development Control Plan 2013, Part C1.
8. The proposal does not satisfy the objectives or controls for Setbacks set-out in Clause 3.3 of the Randwick Development Control Plan 2013, Part C1.
9. The proposal does not satisfy the objectives or controls for Visual Privacy set-out in Clause 5.3 of the Randwick Development Control Plan 2013, Part C1.

10. The proposal does not satisfy the objectives or controls for View Sharing set-out in Clause 5.5 of the Randwick Development Control Plan 2013, Part C1.
11. The proposal is not within the public interest having regard to the submissions received with the application.
12. The proposal is an overdevelopment of the site with respect to the non-compliances to the relevant building envelope controls set-out in the Randwick Local Environmental Plan 2013 and Development Control Plan 2012.

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

**D43/17 Development Application Report - 1159 Anzac Parade, Matraville
(DA/795/2016)**

PL42/17

RESOLUTION: (Roberts/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. 795/2016 for the proposed attached dual occupancy, at No. 1159 Anzac Parade, Matraville, 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

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;
 - a) Plant species adjacent to the front side fencing must not exceed 1m in height at maturity.

AMENDMENT: (Neilson/Shurey) that the application be deferred for mediation.
LOST.

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

FOR	AGAINST
Councillor Moore	Councillor Belleli
Councillor Neilson	Councillor D'Souza
Councillor Shurey	Councillor Garcia
	Councillor Matson
	Councillor Nash
	Councillor Roberts
	Councillor Seng
	Councillor Smith
	Councillor Stavrinou
	Councillor Stevenson
Total (3)	Total (10)

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

**D44/17 Development Application Report - 14 Eastbourne Avenue, Clovelly
(DA/469/2011/C)**

PL43/17

RESOLUTION: (Smith/Garcia) 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/469/2011 for 14 Eastbourne Avenue, Clovelly, subject to the conditions contained to this report:

- **Amend Condition No. 1 to read:**

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

Plan Number	Dated	Received	Prepared By
DA01a	2/11/11	4 November 2011	Michael Folk Architects and Interiors Pty. Ltd.
DA02a	2/11/11		
DA05a	2/11/11		

BASIX Certificate No.	Dated	Received
A115876	23 June 2011	27 June 2011

as amended by the following Section 96 (A) details:

Plan Number	Dated	Received	Prepared By
DA01b	1/03/12	18 April 2012	Michael Folk Architects and Interiors Pty. Ltd.
DA02b	1/03/12		

BASIX Certificate No.	Dated	Received
A115876_03	1 March 2012	18 April 2012

as amended by the following Section 96 (B) details:

Plan Number	Dated	Received	Prepared By
S9601[C]	10/02/14	12 February 2014	Michael Folk Architects and Interiors Pty. Ltd.
S9602[C]	10/02/14		

BASIX Certificate No.	Dated	Received
A115876_04	11 February 2014	12 February 2014

As amended by the following Section 96 (C) details:

Plan Number	Dated	Prepared By
S9601C	10/11/16	Michael Folk Architects and Interiors Pty. Ltd.
S9602C	10/11/16	

BASIX Certificate No.	Dated
A115876_05	3 rd November 2016

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:

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

D45/17 Development Application Report - 71 Coogee Bay Road, Randwick (DA/564/2016)

PL44/17

RESOLUTION: (Roberts/Seng) 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/564/2016 for alterations and additions to the existing dwelling house including new front carport, first floor addition and attached secondary dwelling at 71 Coogee Bay Road, Randwick, subject to the following non standard conditions and the standard conditions contained in the development application compliance report attached to this report:

Non standard conditions**Amendment of Plans & Documentation**

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. A privacy screen having a height of 1.6m (measured above the finished floor level) shall be provided to the western side of the rear entry porch on the first floor level.

The privacy screen must be constructed with either:

 - Translucent or obscured glazing;
 - Fixed lattice/slats with individual openings not more than 30mm wide;
 - Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.
 - b. One of the following privacy measures shall be implemented to the kitchen window opening on the first floor level to the western side:
 - The window opening shall have a minimum sill height of 1.6m above floor level; or alternatively,
 - The window opening shall be fixed and be provided with translucent, obscured, frosted or sandblasted glazing to a minimum sill height of 1.6m above floor level; or alternatively,
 - The window shall be of obscure glazing and converted into an awning hung window or alternatively,
 - Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.
 - c. The outdoor terrace area on the first floor level at the front of the secondary dwelling shall have a maximum depth of 4m and a planter box shall be provided to its northern edge. Details of the planter box including suitable soil depth & plant species must be submitted to Council's Manager Development Assessment for approval prior to the issuing of a construction certificate.

AMENDMENT: (Matson/Shurey) 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/564/2016 for alterations and additions to the existing dwelling house including new front carport, first floor addition and attached secondary dwelling at 71 Coogee Bay Road, Randwick, subject to the following non standard conditions and the standard conditions contained in the development application compliance report attached to this report:

Non standard conditions

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. A privacy screen having a height of 1.6m (measured above the finished floor level) shall be provided to the western side of the rear entry porch on the first floor level.

The privacy screen must be constructed with either:

 - Translucent or obscured glazing;
 - Fixed lattice/slats with individual openings not more than 30mm wide;
 - Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.
 - b. One of the following privacy measures shall be implemented to the kitchen window opening on the first floor level to the western side:
 - The window opening shall have a minimum sill height of 1.6m above floor level; or alternatively,
 - The window opening shall be fixed and be provided with translucent, obscured, frosted or sandblasted glazing to a minimum sill height of 1.6m above floor level; or alternatively,
 - The window shall be of obscure glazing and converted into an awning hung window or alternatively,
 - Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.
 - c. The outdoor terrace area on the first floor level at the front of the secondary dwelling shall have a maximum depth of 4m. **LOST.**

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

FOR	AGAINST
Councillor D'Souza	Councillor Belleli
Councillor Matson	Councillor Garcia
Councillor Moore	Councillor Nash
Councillor Neilson	Councillor Roberts
Councillor Shurey	Councillor Seng
Councillor Stevenson	Councillor Smith
	Councillor Stavrinou
Total (6)	Total (7)

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

D46/17 Development Application Report - 87-89 Frenchmans Road, Randwick (DA/439/2016)

RESOLUTION: (Moore/Roberts) -

- A. That Council supports the exceptions to development standards under Clause 4.6 of Randwick Local Environmental Plan 2012 in respect to non-compliance

with Clauses 4.3 and 4.4 of Randwick Local Environmental Plan 2012, relating to building height and floor space ratio respectively, on the grounds that the proposed development complies with the objectives of the above clauses, and will not adversely affect the amenity of the locality, and that the Department of Planning & Environment be advised accordingly.

- B. 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/439/2016 for the construction of a new 4 storey shop top housing development including 2 ground floor commercial premises, 7 residential apartments and basement parking for 12 car spaces with access from 91-95A Frenchmans Road (Variation to building height and floor space ratio control) at No. 87-89 Frenchmans Road, Randwick, subject to the following non-standard conditions and the standard conditions contained in the development application compliance report attached to this report:

Non-Standard Conditions:

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
- a) Visitor entry to all units and internal common areas must be provided by intercom and remote locking systems.
 - b) Artificial lighting must be provided for the underside of the street frontage awning, and all building entries, pedestrian paths and communal open space within the development.

AMENDMENT: (Neilson/-) that the application be approved in accordance with the staff recommendation, subject to the removal of the communal open space on the rooftop. **LAPSED FOR THE WANT OF A SECONDER.**

MOTION: (Moore/Roberts) 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 Neilson
Councillor D'Souza	
Councillor Garcia	
Councillor Matson	
Councillor Moore	
Councillor Nash	
Councillor Roberts	
Councillor Seng	
Councillor Shurey	
Councillor Smith	
Councillor Stavrinou	
Councillor Stevenson	
Total (12)	Total (1)

Cr Garcia left the meeting at this point (8.10pm).

D47/17 Development Application Report - 28 Greville Street, Clovelly (DA/124/2017)

RESOLUTION: (Matson/Smith) that the application be deferred for mediation for the purpose of resolving the privacy issues.

PL46/17

AMENDMENT: (Neilson/Shurey) that Council, as the consent authority, refuses development consent under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/124/2017 for the construction of screening on the eastern side of the stair landing to the studio, and the use of the external stairs located between the existing studio and terrace with associated works including a timber deck, a door to the studio, and screening on the western boundary, and at No. 28 Greville Street, Clovelly, for the following reason:

1. The proposed external stairs are not considered to be in the public interest due to privacy impacts on the neighbouring properties. **LOST.**

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

FOR	AGAINST
Councillor Moore	Councillor Belleli
Councillor Neilson	Councillor D'Souza
Councillor Shurey	Councillor Matson
	Councillor Nash
	Councillor Roberts
	Councillor Seng
	Councillor Smith
	Councillor Stavrinou
	Councillor Stevenson
Total (3)	Total (10)

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

D48/17 Development Application Report - 48 Chester Avenue, Maroubra (DA/859/2016)

PL47/17

RESOLUTION: (Roberts/Smith) 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. 859/2016 for demolition of existing house and shed; construction of 5 x two storey plus attic townhouses with underground parking, at No. 48 Chester Avenue, Maroubra, subject to the following non standard conditions and the standard conditions contained in the development application compliance report attached to this report:

Non standard conditions

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. The rear decks at first floor level for Unit 5 shall be replaced by an awning of no more than 1 metre in width, the rear decks at the attic level shall be deleted and the glass sliding doors in the rear façade at first floor and attic level shall be replaced with windows with a minimum sill height of 1.2m. Details of the design changes are to be indicated on the plans submitted with the Construction Certificate to the satisfaction of the Principal Certifying Authority (PCA).
 - b. Openable skylights are to be added to the southern face of the roof at the top of the stairwell at the attic level of Units 2 to 5 inclusive to improve natural cross ventilation opportunities within the attic level and through the stairwell. Details of the skylights are to be included in plans submitted with the Construction Certificate to the satisfaction of the PCA.

- c. Windows adjoining the non-trafficable roof areas to Units 3 and 4 at first floor level shall be of a sill height and design which prevents access to the roof area and prevents the space being used as a deck or balcony. Details of the window schedule are to be included in the information submitted with the Construction Certificate to the satisfaction of the PCA.
- d. The external wall height shall be increased by 300mm to provide a minimum of 2.7m floor to ceiling height for the first floor. The maximum height must not change and the roof pitch shall be adjusted to accommodate the increased wall height.

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

**D49/17 Development Application Report - 19 Howard Street, Randwick
(DA/177/2016/A)**

PL48/17

RESOLUTION: (Smith/Roberts) that Council, as the consent authority, grants consent under Section 96 of the Environmental Planning and Assessment Act 1979, as amended, to modification seeking to increase the overall height of the building by 810mm, four new south facing dormer windows, and increasing the width of the eastern most eave from 400mm to 600mm, at No. 19 Howard Street, Randwick, subject to the following conditions:

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
A1.01 Rev. D	Building Design & Technology Pty Ltd	1 July 2016
A1.02 Rev. C	Building Design & Technology Pty Ltd	25 February 2016
A1.03 Rev. D	Building Design & Technology Pty Ltd	1 July 2016
A1.04 Rev. D	Building Design & Technology Pty Ltd	1 July 2016
A1.05 Rev. D	Building Design & Technology Pty Ltd	1 July 2016
A1.06 Rev. B	Building Design & Technology Pty Ltd	1 July 2016
A1.07 Rev. D	Building Design & Technology Pty Ltd	1 July 2016

BASIX Certificate No.	Dated
A242895	4 March 2016

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

Plan	Drawn by	Dated
A1.01 Rev. F	Building Design & Technology Pty Ltd	13 Dec. 2016
A1.03 Rev. F	Building Design & Technology Pty Ltd	13 Dec. 2016
A1.04 Rev. F	Building Design & Technology Pty Ltd	13 Dec. 2016
A1.05 Rev. F	Building Design & Technology Pty Ltd	13 Dec. 2016

A1.06 Rev. F	Building Design & Technology Pty Ltd	13 Dec. 2016
A1.07 Rev. F	Building Design & Technology Pty Ltd	13 Dec. 2016

BASIX Certificate No.	Dated
A242895_02	29 November 2016

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:."

MOTION: (Shurey/Neilson) that Council, as the consent authority, refuse consent under Section 96 of the Environmental Planning and Assessment Act 1979, as amended, to modification seeking to increase the overall height of the building by 810mm, four new south facing dormer windows, and increasing the width of the eastern most eave from 400mm to 600mm, at No. 19 Howard Street, Randwick, for the following reasons:

1. The proposed modification will not result in a development that is substantially the same as originally approved.
2. The proposed development does not comply with the relevant objectives of R2 Low Density Residential Zone of the Randwick Local Environmental Plan (RLEP) 2012. The size and scale of the proposed development is incompatible with the existing and desired future character of the locality and zone and will adversely impact on the amenity of adjoining properties in terms of visual bulk and scale. The proposed additional height and bulk and the additional dormers will dominate and detract from the character of the streetscape.
3. The proposal exceeds the floor space ratio control of Clause 4.4 of the RLEP 2012. The proposal does not satisfy the objectives set out in the RLEP in that the size and scale of the proposed development is incompatible with the existing and desired future character and the built form will dominant the residential site to the west, reducing its residential amenity.
4. The proposal does not satisfy the controls and objectives set out in sub-section 3.2 - Building Heights of the Randwick Council Development Control Plan 2013 (RDCP 2013) in that the height and scale of the proposed addition is inconsistent with and will dominate the built form of the existing dwellings in the locality and detract from the streetscape character.
5. The proposed dormers do not satisfy the controls and relevant objectives of sub-section 4.4 of the RDCP 2013. A total of nine dormers are now proposed. The four additional dormers will be prominent from the street. The dormers overcomplicate the roof form and contribute to non-compliant wall heights and excessive building bulk. Such dormers are not a feature of the existing streetscape. **LOST.**

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

FOR	AGAINST
Councillor Matson	Councillor Belleli
Councillor Moore	Councillor D'Souza
Councillor Neilson	Councillor Nash
Councillor Shurey	Councillor Roberts
	Councillor Seng
	Councillor Smith
	Councillor Stavrinou
	Councillor Stevenson

Total (4)**Total (8)****MOTION: (Smith/Roberts) 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 Matson
Councillor D'Souza	Councillor Moore
Councillor Nash	Councillor Neilson
Councillor Roberts	Councillor Shurey
Councillor Seng	Councillor Stevenson
Councillor Smith	
Councillor Stavrinou	
Total (7)	Total (5)

**D50/17 Development Application Report - 173 Gale Road, Maroubra
(DA/845/2016)**

PL49/17

RESOLUTION: (Smith/Matson) that Council as the consent authority, refuse development consent under Section 80 of the Environmental Planning and Assessment Act 1979 to Development Application No. 845/2016 to legitimise the use of the unauthorised rear lower ground floor area for a gym, three (3) storage rooms, laundry and bathroom at 173 Gale Road, Maroubra for the following reasons:

1. The proposed development is inconsistent with the relevant objectives of the R2 – Low Density Residential zone under the Randwick Local Environmental Plan 2012 in that the proposal does not protect the amenity of residents.
2. The proposed development does not comply with the Floor Space Ratio standard under Clause 4.4 of Randwick Local Environmental Plan 2012 and the clause 4.6 exception is not well founded.
3. The proposed development does not comply with the Building Code of Australia.

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 D'Souza	Councillor Belleli
Councillor Matson	
Councillor Moore	
Councillor Nash	
Councillor Neilson	
Councillor Roberts	
Councillor Seng	
Councillor Shurey	
Councillor Smith	
Councillor Stavrinou	
Councillor Stevenson	
Total (11)	Total (1)

D51/17 Development Application Report - 225 Rainbow Street, Randwick (DA/912/2016)

PL50/17

RESOLUTION: (Matson/Shurey) 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. 912/2016 for alterations and additions to the dwelling, and installation of swimming pool at at No. 225 Rainbow Street, Randwick 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

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. The finished level of the swimming pool and deck surround is to be reduced to a maximum level of RL 44.65.
 - b. The size of the deck to the rear of the family room shall be a maximum of 1.2m in depth and 3.2m in width, with the stairs sited 900mm from the western edge of the deck and to be 2.2m in width. A privacy screen having a height of 1.6m above the deck level is to be provided to the western side of the deck
The privacy screen must be constructed with either:
 - Translucent or obscured glazing;
 - Fixed lattice/slats with individual openings not more than 30mm wide;
 - Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.
 - c. Reference to increase in height of the existing side and rear fencing is to be deleted.
 - d. The window to the stairwell (W6) on the eastern elevation must be provided with translucent, obscured, frosted or sandblasted glazing and the opening of any awning window/s must not exceed 150mm.

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

Cr Garcia return returned to the meeting at this point (8:33pm).

D52/17 Development Application Report - 91 Perouse Road, Randwick (DA/940/2016)

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

PL51/17

RESOLUTION: (Roberts/Smith) that Council, as the consent authority, grants development consent under Section 80 of the Environmental Planning and Assessment Act 1979 to Development Application No. DA/940/2016 for the cconstruction of hardstand car park space to the front of the existing semi-detached dwelling with associated works (Heritage Conservation Area) at 91 Perouse Road, Randwick, subject to the following conditions:

DEVELOPMENT CONSENT CONDITIONS

GENERAL CONDITIONS

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

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

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated
Sheet 2 ARK888-1-2 Rev. B	Ark Design Studio	2 March 2017

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. The wheel strips within the car parking area shall be sandstone pavers.

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 Payments

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

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

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

5. 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.

Design Alignment levels

6. 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:

- **Match the back of the existing Council footpath levels along the full site frontage.**

7. The above alignment levels and the site inspection by Council's Development Engineer have been issued at a prescribed fee of \$167.00 (inclusive of GST). This amount is to be paid prior to a construction certificate being issued for the development.

Carspace Design

8. The gradient of the carspace must be designed and constructed to not exceed a grade of 1 in 14 (7.14%) and the levels of the carspace must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate documentation.

Protection of Street Tree

9. In order to ensure retention of the *Lophostemon confertus* (Brush Box) located on Council's Perouse Road footpath, centrally across the width 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. Any excavations associated with the installation of new services, pipes, stormwater systems or similar over public property can only be located in line with either the southern edge of the vehicle crossing; or; to the north of the existing tree square, with all plans to acknowledge this requirement.
- c. The Construction Certificate plans must also show that the northern edge of the vehicle crossing will be offset a minimum distance of **1613mm**, measured from the centre of its trunk, as is shown on dwg ARK888-1-2, sheet 2 of 2, rev B, dated 02.03.17, which will provide an offset of **1100mm** from the outside edge of its trunk at ground level, so as to match up with the southern edge of the existing porous tree square.
- d. **Following removal of the existing concrete surfacing, but prior to forming up for the new crossing, Council's Landscape Development Officer (9093-6613) must firstly be contacted, giving at least 2 working days notice, to inspect the area and any roots encountered, before proceeding further with any works.**
- e. Where minor roots with a diameter of less than 50mm are found which are in direct conflict with the works, and Council grants permission for their pruning, they may be cut cleanly by hand by the applicant, and are

then to be covered with soil as soon as practically possible, and not left exposed to the atmosphere.

- f. Where major roots with a diameter of 50mm or more are encountered and need to be pruned in order to accommodate the approved works, only Council can perform this, with all costs to be borne wholly by the applicant.
- g. The required fee for 'e' above must be paid into **Tree Amenity Income** at the Cashier on the Ground Floor of the Administrative Centre, **prior to Council performing the works**, and once payment has been made, the receipt number must be provided to Council's Landscape Development Officer so to facilitate the root pruning.
- h. Its trunk is to be physically protected by wrapping layers of geo-textile, underfelt or layers of Hessian, from ground level to a height of 2m, to which, 2m lengths of 50mm x 100mm hardwood timbers, spaced at 150mm centres shall be placed around its circumference, and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
- i. The measures described in point 'g' above 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, DO NOT REMOVE".
- j. 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 existing porous tree square.
- k. 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 canopy pruning or similar 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.
- l. 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 on or adjacent to the tree square, with all Site Management Plans needing to acknowledge these requirements.
- m. 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.
- n. A refundable deposit in the form of cash, credit card or cheque for an amount of **\$2,500.00** 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 the Final 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 (9093-6613).

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.

Driveway Design

10. 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.

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.

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

12. 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

13. 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

14. 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

15. 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.

Public Utilities

16. 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.
17. The applicant must meet the full cost for 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.

Telstra Dome Relocation

18. The applicant must meet the full cost for Telstra to relocate the Telstra Dome as shown on the amended submitted plans. The applicant/owner must make the necessary arrangements with the service authority and be responsible for the cost of all works associated with the relocation.

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

19. 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

20. 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

21. 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, vibratory rollers/compactors 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

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

22. 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 in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.

Removal of Asbestos Materials

23. 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 10m² 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 in the Building & Development Section or a copy can be obtained from Council's Customer Service Centre.

Sediment & Erosion Control

24. 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

25. 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

26. 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.
27. 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.

28. 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

29. 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

30. 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.

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

31. 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.

Council's Infrastructure, Vehicular Crossings, Street Verge

32. The applicant must meet the full cost for a Council approved contractor to:
- a. Construct a concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site, to Council's specifications and requirements.

*NOTE: The northern edge of the vehicle crossing must be offset a minimum distance of **1613mm** from the centre of the trunk of the Brush Box street tree, as is shown on dwg ARK888-1-2, sheet 2 of 2, rev B, dated 02.03.17, which will provide an offset of 1100mm from the outside edge of its trunk at ground level, so as to match up with the southern edge of the existing porous tree square.*

33. 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.

34. 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.

Tree Protection Certification

35. Prior to the PCA issuing any type of Occupation Certificate, written certification must firstly be obtained from Council's Landscape Development Officer (9093-6613) confirming that the Tree Protection Measures and any other instructions issued on-site were complied with during the course of works.

ADVISORY NOTES

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

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

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

- A2. 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 and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.

A8. 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.

A9. 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.

A10. This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:

- the consent of the owners of such adjoining or supported land to trespass or encroach, or
- an access order under the Access to *Neighbouring Land Act 2000*, or
- an easement under section 88K of the *Conveyancing Act 1919*, or
- an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

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

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

A12. Demolition work and removal of asbestos materials:

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

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

MOTION: (Neilson/Shurey) that Council, as the consent authority, refuse development consent under Section 80 of the Environmental Planning and Assessment Act 1979 to Development Application No. DA/940/2016 for the construction of hardstand car park space to the front of the existing semi-detached dwelling with associated works (Heritage Conservation Area) at 91 Perouse Road, Randwick for the following reasons:

1. The proposal is inconsistent with the specific objectives of the R2 Low Density Residential zone in that the proposed activity and hard stand car space will not enhance or protect the residential amenity of surrounding residents or the character of the street and locality.
2. The proposal is inconsistent with the specific objectives concerning heritage conservation of the RLEP 2012 in that the proposed hard stand does not conserve the fabric and setting of the heritage conservation area. The original frontage fencing and entrance path, and a significant portion of the landscaped front yard area are proposed for removal. A car parked forward of the dwelling will obstruct and detract from views from the original features of the dwelling. Further, hard stand car spaces in front of dwellings are not a characteristic feature of the Spot Heritage Conservation Area.
3. The proposed carspace is inconsistent with the controls and objectives of Sub-Section 6 – Car Parking and Access – of the Low Density Residential section of the Randwick Development Control Plan 2013.
4. The proposed carspace is inconsistent with the controls and objectives of the Heritage section of the Randwick Development Control Plan 2013, in relation to garages, carports, carspaces and driveways.
5. The proposal is considered to not be in the public interest as it will result in significant adverse environmental impacts and will facilitate the propagation of similar hard stand parking spaces within the front yard of sites within the Spot Heritage Conservation Area. **LOST.**

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

FOR

Councillor Moore
Councillor Neilson
Councillor Shurey
Councillor Stevenson

AGAINST

Councillor Belleli
Councillor D'Souza
Councillor Garcia
Councillor Nash
Councillor Roberts
Councillor Seng
Councillor Smith
Councillor Stavrinou

MOTION: (Roberts/Smith) CARRIED - SEE RESOLUTION

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

FOR

Councillor Belleli
Councillor D'Souza
Councillor Garcia
Councillor Moore
Councillor Nash
Councillor Roberts
Councillor Seng
Councillor Smith
Councillor Stavrinou

Total (9)**AGAINST**

Councillor Neilson
Councillor Shurey
Councillor Stevenson

Total (3)

Cr Matson returned to the meeting at this point (8:56pm).

D53/17 Development Application Report - 181 Oberon Street, Coogee (DA/221/2017)

RESOLUTION: (Smith/Garcia) 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. 221/2017 for the Construction of a spa pool to the rear of the existing dwelling with associated works, at No. 181 Oberon Street, Coogee, subject to the following non standard 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

- 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
A 4000	DK	April 2017
A 4001	DK	April 2017
A 4003	DK	April 2017

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.
3. 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 legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of 'on-the-spot' penalty infringements or service of a notice and order by Council.

4. Prior to the commencement of any excavation or building works, a construction certificate must be obtained from Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

A copy of the construction certificate, the approved plans and development 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

5. Prior to the commencement of any works, the person having the benefit of the development consent (ie owner) must:-
 - i) appoint a *Principal Certifying Authority* for the building work, and
 - ii) appoint a *principal contractor* for the building work, or in relation to residential building work, obtain an *owner-builder* permit in accordance with the requirements of the Home Building Act 1989, and notify the *Principal Certifying Authority* and Council accordingly in writing, and
 - iii) unless the person having the benefit of the consent is the *principal contractor* (i.e. *owner-builder*), notify the *principal contractor* of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*, and
 - iv) give at least two days notice to the Council, in writing, of the persons intention to commence building works.
6. The works must be inspected by the Principal Certifying Authority (or another certifying authority if the Principal Certifying Authority agrees), 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 in accordance with section 81A (2) (b1) (ii) of the Environmental Planning & Assessment Regulation 2000 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).

Documentary evidence of the building inspections carried out and details of compliance with Council's consent is to be maintained by the *Principal Certifying Authority*. Details of *critical stage inspections* carried out and copies of certification relied upon must also be forwarded to Council with the *occupation certificate*.

The principal contractor or owner-builder (as applicable) must ensure that the required critical stage and other inspections, as specified in the Principal Certifying Authority's "Notice of Critical Stage Inspections", are carried out to the satisfaction of the Principal Certifying Authority and at least 48 hours notice (excluding weekends and public holidays) is to be given to the Principal Certifying Authority, to carry out the required inspection, before carrying out any further 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™** 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.

Stormwater Drainage

9. Surface water from new building work and structures must be drained in accordance with the following requirements (as applicable), to the satisfaction of the Certifying Authority and details are to be included in the construction certificate:
- a) Surface water/stormwater drainage systems are required to satisfy the relevant requirements of the Building Code of Australia (Volume 2);
 - b) Surface water/stormwater is to 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) External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from buildings and adjoining premises, so as not to result in the entry of water into buildings, or cause a nuisance or damage to adjoining premises.

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

10. 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 licensed *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.

Home Building Act 1989

11. In accordance with clause 98 of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition, that in the case of residential building work, a contract of insurance must be obtained and in force, in accordance with the provisions of the Home Building Act 1989.

Where the work is to be done by a licensed contractor, excavation or building work must not be carried out unless the Principal Certifying Authority (PCA):

- has been informed in writing of the licensee's name and contractor number; and
- is satisfied that the licensee has complied with the insurance requirements of Part 6 of the *Home Building Act 1989*, or

Where the work to be done by any other person (i.e. an *owner-builder*), excavation or building work must not be carried out unless the Principal Certifying Authority:

- has been informed of the person's name and *owner-builder* permit number, or
- has been given a declaration, signed by the owner of the land that states that the market cost of the labour and materials involved in the work does not exceed \$5,000.

Details of the principal building contractor and compliance with the provisions of the *Home Building Act 1989* (i.e. *Details of the principal licensed building contractor and a copy of the Certificate of Insurance*) are to be submitted to Council **prior to the commencement of any works**, with the notice of appointment of the PCA / notice of intention to commence building work.

Construction Noise & Vibration

12. 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.

A construction noise and vibration management plan must be developed and if the building and site work is likely to cause a noise nuisance and/or implemented vibration, to the satisfaction of Council.

Construction Site Management Plan

13. A *Construction Site Management Plan* must be developed and implemented throughout the site works, to the satisfaction of Council. The construction site management plan must include the following measures, (as applicable):

- temporary site fencing or hoardings;
- 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;
- details of proposed temporary pool fencing.

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.

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

14. 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.

Site Signage

15. 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

16. 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, vibratory rollers/compactors 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

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

17. The demolition of buildings must be carried out in accordance with Australian Standard 2601 (2001) – Demolition of Structures and the relevant requirements of WorkCover NSW, Randwick City Council's Asbestos Policy and the *Protection of the Environment Operations Act 1997*.

Public Safety & Site Management

18. 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, to Council's satisfaction. Temporary site fences are to have a minimum height of 1.8 metres and be constructed of cyclone wire fencing.

Temporary site fences are also required 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.

- 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) All building and site activities (including storage or placement of materials or waste and concrete mixing/pouring/pumping activities) must not cause or be likely to cause 'pollution' of any waters, including any stormwater drainage systems, street gutters or roadways.

Note: It is an offence under the Protection of the Environment Operations Act 1997 to cause or be likely to cause 'pollution of waters', which may result in significant penalties and fines.

- 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. Details are to be included in the *Construction Site Management Plan*.
- 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.
1. 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 (as applicable):

- 1) The roadway, footpath and nature strip must be maintained in a good, safe and clean condition and free from any obstructions, trip hazards, materials, soils, debris and other articles at all times. Any damage caused to the road, footway or nature strip must be repaired immediately, to the satisfaction of Council.
- 2) Demolition, excavation and building work 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, to the satisfaction of the Principal Certifying Authority.

If necessary, 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, to the satisfaction of the Principal Certifying Authority.

- 3) The adjoining land and buildings located upon the adjoining land must be adequately supported at all times. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of any building located on an adjoining allotment of land, the person causing the excavation must:
 - preserve and protect the building /s on the adjoining land from damage; and
 - if necessary, underpin and support the building and excavation in an approved manner; and
 - at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land (including a public road or public place), provide details of the proposed works to the owner of the adjoining land.

Notes

This condition/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 principal contractor or owner-builder must obtain:

- a) *the consent of the owners of such adjoining or supported land to trespass or encroach, or*
- b) *an access order under the Access to Neighbouring Land Act 2000, or*
- c) *an easement under section 88K of the Conveyancing Act 1919, or*
- d) *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).

- 4) 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.
- 5) 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 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.

The public safety provisions and temporary fences must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

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.

- 6) 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.

Support of Adjoining Land, Excavations & Retaining Walls

19. Excavations and adjoining land must be adequately supported at all times and the following requirements must be satisfied:

- a) 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.
- b) 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.

Where necessary, retaining walls, shoring or piling must be provided to support land which is excavated, to prevent the movement of soil and to support the adjacent land and buildings and adequate provisions are also to be made for drainage.

Details of any 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.

- c) 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 demolition, 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;
 - as otherwise 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.

EQUIREMENTS 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

20. 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/additions to existing buildings and swimming pools), in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979*.

Swimming Pool and Spas Safety

The following conditions are applied to ensure compliance with the Swimming Pools Act 1992 and to maintain public safety and amenity:

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

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

Temporary pool safety fencing is to be provided pending the completion of all building work and the pool must not be filled until a fencing inspection has been carried out and approved by the principal certifying authority.

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

Note: This development consent does not approve the design and location of swimming pool fencing and other swimming pool safety barriers. Swimming pool fencing and other safety barriers are required to comply with the Swimming Pools Act 1992, Swimming Pools Regulation 2008 and relevant

Standards. Details of compliance are required to be incorporated into the plans and specifications for a Construction Certificate, to the satisfaction of the Certifying Authority.

Spa Pool Safety

22. 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

23. 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

24. The owner of the premises must 'register' the swimming pool [or spa pool] on the NSW Swimming Pool Register, in accordance with the *Swimming Pools Act 1992*.

The Swimming Pool Register is administered by the NSW Office Local Government and registration on the Swimming Pool Register may be made on-line via their website www.swimmingpoolregister.nsw.gov.au.

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

Council's Infrastructure & Vehicular Crossings

25. 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 to the satisfaction of Council and details of proposed existing civil works must be submitted to and approved by Council before carrying out such works.

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.

Plant & Equipment – Noise Levels

26. The operation of 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*.

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 Environment Protection Authority (EPA) Noise Control Guidelines.

Swimming/Spa Pools

27. 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.

The operation of swimming pool/spa pool pump and equipment is restricted, if the noise emitted can be heard within a habitable room in any other residential premises, the equipment shall not be operated during the following hours, 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.

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 legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of 'on-the-spot' penalty infringements or service of a notice and order by Council.

- A2 All new building work (including alterations, additions and building renovations) must comply with the Building Code of Australia (BCA) and relevant Australian Standards and details of compliance must be provided in the Construction Certificate application.

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

Miscellaneous Reports

- M1/17 Miscellaneous Report - Report variation to Development Standard under State Environmental Planning Policy No.1 (SEPP1) and clause 4.6 between 01 February to 31 May 2017 (F2008/00122)**

RESOLUTION: (Smith/Garcia) that the report be received and noted.

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

M2/17 Miscellaneous Report - Impacts of the AHSEPP within suburbs of Randwick City (F2009/00315)**RESOLUTION: (Matson/Neilson)** that the Council:

- a) seek the Department of Planning and Environment's feedback on matters raised in this report including community concerns; and
- a) b) request the Department of Planning and Environment to conduct a comprehensive review the effectiveness of AHSEPP in meeting its objectives in consultation with councils. This review should include;
- An audit of boarding houses approved under the AHSEPP, location and number of rooms approved;
 - A detailed post occupancy survey of these boarding houses, who are the tenants and rents charged?;
 - Design and impact of the new generation boarding houses on the local streetscape including a review of the FSR incentive provided – is this really needed given the strong development interest and demonstrated financial returns?;
 - A parking review including demand;
 - Strengthening amenity and design provisions for occupants; and
 - Importantly, mechanisms to secure genuine affordable housing outcomes for those who need it. As a minimum, any density bonuses provided to new generation boarding houses should be linked to genuine affordable housing outcomes ie. proportion of boarding house rooms should be let out at affordable rental levels and be managed by a community housing provider to target those who need it most.
- c) submit a motion in relation to this matter to the LGNSW Conference to obtain the support of other Councils throughout NSW.

MOTION: (Matson/Neilson) CARRIED UNANIMOUSLY - SEE RESOLUTION.**Notice of Rescission Motions**

Nil.

The meeting closed at 9.04pm.

The minutes of this meeting were confirmed at the Planning Committee Meeting of the Council of the City of Randwick held on Tuesday, 11 July 2017......
CHAIRPERSON