

Development Application Compliance Report



Folder /DA No:	DA/542/2017
PROPERTY:	6 Forsyth Street, KINGSFORD NSW 2032
Proposal:	Demolition of all structures on site and construction of a new 4 storey in-fill affordable housing in two buildings with a total of 14 dwellings, ground level parking for 2 vehicles, communal open space, associated site and landscaping works (variation to building height and floor space ratio controls).
Recommendation:	Refusal

Relevant Environment Planning Instruments:

1. SEPPs

State Environmental Planning Policy (Building Sustainability Index: BASIX)

A BASIX Certificate No. 842823M has been submitted with the development application and demonstrates that the proposal can achieve the required water efficiencies and thermal comfort requirements.

State Environmental Planning Policy 55 - Remediation of Land

State Environmental Planning Policy No. 55 aims to promote the remediation of contaminated land for the purposes of reducing risk of harm to human health or any other aspect of the environment.

The subject site has been continuously used for residential purposes since 1943s. There is no known previous industrial usage on the site, which would potentially contribute to land contamination. Accordingly, no contamination report is required in this instance.

Division 1: Infill Affordable Housing

The subject application is made pursuant to the SEPP (Affordable Rental Housing) 2009 and requires assessment under Clause 14 – Standards that cannot be used to refuse consent. Table 2 below identifies the proposal’s compliance against the provisions of Clause 14 under the ARH SEPP.

Table 1: Clause 14 ARH SEPP – Compliance Table		
Required	Proposed	Complies?
Site Area (Cl 14(1)(b)) if the site area on which it is proposed to carry out the development is at least 450 square metres	499.5m ² (per survey plan)	Yes
Landscaped Area (Cl14(1)(c)) (i) in the case of a development application made by a social housing provider—at least 35m ² of landscaped area per dwelling is provided, or (ii) in any other case—at least 30% of the	N/A	N/A

Table 1: Clause 14 ARH SEPP – Compliance Table		
Required	Proposed	Complies?
site area is to be landscaped,	While the applicant indicates compliance with 180.96m ² (38%) landscaped area, hard paved areas have been included within this calculation. The genuine landscaped area is 153.96m ² (30%) of the site area.	Yes
<p>Deep Soil Zones (CI 14(1)(d)) if, in relation to that part of the site area (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed:</p> <p>(i) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the site area (the deep soil zone), and</p> <p>15% of 499.5m² = 74.9m²</p> <p>(ii) each area forming part of the deep soil zone has a minimum dimension of 3 metres, and</p> <p>(iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,</p>	<p>30.72% (153.46m²) of the site is deep soil area.</p> <p>Deep soil zones <3m in dimension have been excluded from above calculation.</p> <p>The main areas of deep soil are located at the front and centre of the site with narrow areas surrounding the building at the rear of the site. The intent of the policy is to provide landscaping towards the rear of properties maintaining some potential for open space and landscaping. This cannot be achieved given the siting of two buildings down the length of the site.</p>	<p>Yes</p> <p>Yes</p> <p>No</p>
<p>Solar Access (CI 14(1)(e)) if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.</p>	92.9% (13 of 14 dwellings)	Yes
<p>Car Parking (CI 14(2)(a)) (i) in the case of a development application made by a social housing</p>	N/A	N/A

Table 1: Clause 14 ARH SEPP – Compliance Table		
Required	Proposed	Complies?
<p>provider for development on land in an accessible area—at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms, or</p> <p>(ii) in any other case—at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms.</p> <p>4 x studio = no requirement 10 x 1 bedroom (0.5) = 5 car spaces Total car parking required = 5 car spaces</p>	<p>The proposal includes 2 car parking spaces. Based on the correct description of the development as 4 x studio apartments and 10 x 1 bedroom apartments the parking provision is deficient by 3 spaces. The area is heavily parked and there is a shortage of available street parking for the number of dwellings proposed.</p>	<p>No</p>
<p>Dwelling Size (Cl 14(2)(b))</p> <p>(i) 35m² in the case of a bedsitter or studio, or</p> <p>(ii) 50m² in the case of a dwelling having 1 bed, or</p> <p>(iii) 70m² in the case of a dwelling having 2 beds, or</p> <p>(iv) 95 m² in the case of a dwelling having 3+ beds.</p>	<p>(i) 4 x studios are all 35m²</p> <p>(ii) 10 x one bedroom – Units G03, 103 and 104 all comply with more than 50m², while Units 201, 202, 203, 204, 205, 206 and 207 are all undersized with an area of only 35m².</p> <p>(iii) no 2 bedroom</p> <p>(iv) no 3 bedroom</p>	<p>Yes</p> <p>No</p> <p>N/A</p> <p>N/A</p>

State Environmental Planning Policy 65 –Design Quality of Residential Apartment Development

SEPP No. 65 seeks to improve the design of residential flat buildings. There are nine design principles which must be incorporated into new or substantially altered residential flat buildings. The applicant has submitted a SEPP65 report prepared by a registered architect which seeks to demonstrate compliance with the nine design principles. As discussed within this report there are number of elements of the proposal that do not meet the design principles, particularly in relation to context and neighbourhood character, built form and scale, density and amenity. In relation to Housing diversity and social interaction the Design Verification indicates that four x studio apartments are to be used as affordable rental housing allocated to a Community Housing Provider which is inconsistent with the number of apartments identified within the SEE. The discrepancies in the amount of affordable rental housing has a direct bearing on the calculation of FSR bonuses for the development.

In addition, the requirements of the Apartment Design Guide should be met to demonstrate that the development will provide a high quality design which will achieve a high standard of accommodation for future occupants as well as protecting the amenity of adjoining properties. The applicant has submitted an ADG compliance table in support of their proposal, although a number of shortfalls arise as a result of the proposal's inaccurate description. It is considered that the scale and form of the building also contribute to a number of detrimental outcomes with respect to the privacy and overshadowing to adjoining properties. The following table further assesses the proposal's compliance with the ADG.

TABLE 2: SEPP No. 65 Apartment Design Guide – Compliance Table								
ADG - Design Criteria	Proposal	Complies						
<p><u>Communal and Public Open Space</u> Communal open space has a minimum area equal to 25% of the site (125.42m²).</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).</p>	<p>22% (111.25m²) of the site is provided as communal open space.</p> <p>The communal open space is situated at centre of the site and although the shadow diagram referred to in the applicant's statement (A2011) do not show the shadow cast from the four storey building on the opposite side of Harbourne Lane they indicate that the communal open space will receive 2 hours of sunlight in mid-winter.</p>	<p>No</p> <p>✓</p>						
<p><u>Deep Soil Zones</u> Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site Area</th> <th>Minimum Dimension</th> <th>Deep Soil Zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>Less than 650m²</td> <td>-</td> <td>7% (34.9m²)</td> </tr> </tbody> </table>	Site Area	Minimum Dimension	Deep Soil Zone (% of site area)	Less than 650m ²	-	7% (34.9m ²)	<p>The provision of deep soil is 153.46m² (30.72%). Noting no minimum dimension applies</p> <p>NB: The applicant indicates that it is as much as 36% (180.96m²), although some of the areas are decked and under the building which cannot be included as deep soil. Nonetheless the provision well exceeds the ADG requirement.</p>	<p>✓</p>
Site Area	Minimum Dimension	Deep Soil Zone (% of site area)						
Less than 650m ²	-	7% (34.9m ²)						
<p><u>Visual Privacy</u> Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1"> <thead> <tr> <th>Building Height</th> <th>Habitable Rooms and Balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> </tbody> </table>	Building Height	Habitable Rooms and Balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	<p>The proposal includes a 2m setback to the southern boundary adjoining No. 8 Forsyth Street and an 800mm setback to the rear boundary adjoining No. 22 Middle Street. It is considered that the reduced setbacks are not acceptable given the narrow site width and density of development proposed. While the applicant suggests that the fencing and landscaping will minimise overlooking to the south it is considered that the south facing windows on Levels 1 and 2 will</p>	<p>No</p>
Building Height	Habitable Rooms and Balconies	Non-habitable rooms						
Up to 12m (4 storeys)	6m	3m						

TABLE 2: SEPP No. 65 Apartment Design Guide – Compliance Table		
ADG - Design Criteria	Proposal	Complies
	have a direct line of site into the private open space of the neighbouring dwelling where there is currently an outdoor entertaining area and a swimming pool. In addition to the direct overlooking, the scale of the building at four storeys with a setback of 1m (stairwell) and 2m (habitable windows) will have an overbearing impact upon the neighbour's private open space contrary to the objectives of the ADG which seek to balance the need for views and outlook with the need for privacy.	
<p><u>Bicycle and Car Parking</u></p> <p>For development in the following locations:</p> <ul style="list-style-type: none"> • on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or • on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less 	The parking provision for the site is assessed against the SEPP (Affordable Rental Housing) 2009.	N/A See ARH SEPP above
<p><u>Solar Access and Daylight</u></p> <p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	<p>13 of the 14 apartments (93%) receive in excess of 2 hours direct sunlight in mid winter between 9am to 3pm. See solar access diagrams.</p> <p>No apartments are without sunlight, with 3 apartments having limited access.</p>	<p>✓</p> <p>✓</p>
<p><u>Natural Ventilation</u></p> <p>At least 60% of apartments are naturally cross ventilated in the first</p>	All 14 apartments (100%) are naturally cross ventilated.	✓

TABLE 2: SEPP No. 65 Apartment Design Guide – Compliance Table		
ADG - Design Criteria	Proposal	Complies
<p>nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	<p>All apartments do not exceed 8m in depth.</p>	<p>✓</p>
<p><u>Ceiling Height</u> Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> • Habitable Rooms – 2.7m • Non-habitable rooms – 2.4m 	<p>Floor to ceiling heights to Ground Floor to Level 2 = 2.8m</p> <p>Level 3 = 2.6m</p>	<p>✓</p> <p>No</p>
<p><u>Apartment Layout</u> Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> • Studio - 35m² • 1 Bedroom - 50m² • 2 Bedroom - 70m² • 3 Bedroom - 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p> <p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom 	<p>The proposed development has the following unit areas:-</p> <ul style="list-style-type: none"> • Studio – All four (4) studio apartments have an area of 35m² • 1 bed – Of the ten (10) x one bedroom apartments proposed seven (7) have an internal area considerably less than 50m². • 2 bed units – none proposed • 3 bed unit – none proposed <p>No additional bathrooms are provided.</p> <p>All rooms have windows that comply with the requirements of the ADG.</p> <p>All rooms comply with minimum area and dimension requirements of the ADG.</p> <p>All bedrooms have a minimum dimension of 3m.</p> <p>Each apartment has a width of</p>	<p>✓</p> <p>No</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>

TABLE 2: SEPP No. 65 Apartment Design Guide – Compliance Table		
ADG - Design Criteria	Proposal	Complies
apartments The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	3.6m to living rooms. Each apartment has a width of 4m.	✓
<u>Environmental Performance</u> Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Proposed apartments have open plan layouts combining living, dining and kitchen. The maximum living room depth is less than 8m from a window.	✓
<u>Open Space</u> All apartments are required to have primary balconies as follows: <ul style="list-style-type: none"> • Studio - 4m² • 1 Bedroom - 8m² (Minimum depth of 2m) For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	Each studio apartment has a balcony with an area of at least 4m ² . 5 of the 10 one bedroom apartments has a balcony of less than 8m ² . The one bedroom apartment has a private open space of at least 15m ² , but the two studios located at ground level have a private open space that is less than 15m ² .	✓ No No
<u>Common Circulation Space</u> The maximum number of apartments off a circulation core on a single level is eight. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	There is a maximum of 7 units in each block sharing a circulation core. The building is less than 10 storeys.	✓ N/A
<u>Storage</u> In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <ul style="list-style-type: none"> • Studio - 4m³ • 1 Bedroom - 6m³ • 2 Bedroom - 8m³ • 3 Bedroom - 10m³ At least 50% of the required storage is to be located within the apartment.	Each apartment is provided with storage.	✓

PANEL COMMENTS

Council's Design Review Panel provided comments on the application in accordance with SEPP 65. The comments are as follows:

"In the Panel's previous opinion, the originally proposed building with some reduced massing

and bulk would not have been out of scale and character in the neighbourhood and greater precinct. However, in its proposed new massing, particularly in terms of the increased height and reduced setbacks proposed for both buildings, the development would significantly overshadow the available open space servicing the adjacent properties on Forsyth and Middle Streets. While the gap between the two buildings has been enlarged, the additional height and bulk are unacceptable. Previous comments offered that the rear building would have to be redesigned – these comments were intended to result in a smaller, less intrusive building; the current application proposes the opposite.”

“Density has increased on the site, in direct contrast to the intentions expressed in the previous panel report.”

“it is the conclusion of the panel that the increased height, bulk and reduced setbacks proposed will create a pair of buildings that will have unacceptable impacts on surrounding properties, and the neighbourhood.”

“The landscape remains unacceptable”

The Panel conclusion and recommendation is:

“The panel stands by the comments issued in the previous report, and asks that the applicant attempt to adhere to those suggestions, and reduce the scale of the development, rather than aim to increase its size, and therefore exacerbate its negative impacts on surrounding properties. If the applicant is unable or unwilling to do so, the panel then suggests that compliance to all controls on the site, including height, setbacks and FSR be achieved in any alternate proposal.”

PLANNERS COMMENT

The conclusions of the panel are consistent with the concerns raised through the assessment report. That is, the proposed development presents a height, bulk, scale and siting that will have unacceptable and unreasonable impacts on future occupants and adjoining properties. For these reasons and the support of the Panel, the proposed development cannot be supported.

2. Randwick LEP 2012

Randwick Local Environmental Plan 2012 is a matter for consideration in the assessment of the subject development application under Section 79C of the Environmental Planning and Assessment Act 1979 (as amended).

The following table considers the proposed development having regard to the zoning provisions and development standards contained in draft LEP that are of relevance to the subject development application:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	0.75:1	1.0958:1	N/A (See ARH SEPP)
Height of Building (Maximum)	9.5m	12.3m (max.)	No

As illustrated by the architectural plans, the proposal includes a maximum building height to the eastern building fronting Forsyth Street at RL 41.45 (12.3m) which represents a 29.47% variation to Clause 4.3 (Building Height) of RLEP 2012. The height of the western building to the rear of the site is proposed at RL 40.55 (12.15m) which represents a variation of 27.89%.

Despite the building heights depicted on the architectural plans, the applicant has submitted a Clause 4.6 variation in relation to the building height non-compliance which represents lower, incorrect variations with an increased building height of 2.64m (ie. 12.14m, a 27.7% variation) in relation to the eastern building fronting Forsyth Street and 2.54m (ie. 12.04m, a 26.7%

variation) for the western building. The applicant has submitted that the height of buildings development standard is unreasonable or unnecessary for the following reasons:

- *The amended variation is minor, being 2.64m for the roof height on the eastern building and 2.54m for the western building which is a percentage variation of 27.7% and 26.7%, respectively.*
- *The buildings proposed on the site provide acceptable building separation.*
- *In relation to the variation to the roof height, there will be minimal implications as the proposal is compliant in relation to the SEPP ARH, SEPP65 and Randwick DCP 2013 controls for overshadowing, as justified above.*
- *The proposed development is in line with the future character of the area envisaged by the other planning controls.*
- *There is a reasonable visual relationship with adjoining development with appropriate separation distances to similar developments to the north.*
- *Due to the nature and size of the site, negotiations with the adjoining property to the south to amalgamate were undertaken, however these were unsuccessful. A letter which demonstrates proof of the attempts to negotiate is provided under separate cover this this application.*
- *The section of the buildings that exceed the 9.5m height limit, contain sleeping areas within a mezzanine level. In order to ensure privacy and minimise overlooking, the windows of the upper apartments face north. There are no windows or opening on the southern side of the building for the sections that exceed the height of buildings development standard. In addition, screen planting and privacy fencing have been included into the development to ensure that privacy is maintained.*
- *The development provides for high quality internal amenity, as discussed within the SEE.*
- *Strict compliance would lead to a development that would provide a development that is not utilising the full extent of the site and therefore, the site will be underdeveloped. Given that the SEPP ARH allows a bonus FSR, the development must go up or out and therefore, disrupt either Council's height standard, other building envelope controls, or both. In this case, the allocation of bonus FSR has resulted in a height non-compliance, that is compatible to the surrounding properties, in particular, to the north.*
- *There will be no significant adverse amenity impacts on the surrounding properties resulting from the variation to the roof height, with particular reference to privacy, overshadowing and solar access, as justified below.*

Notwithstanding the incorrect depiction of the building height variations within the Clause 4.6 Variation, the increase in height equates to a floor level which is not considered to be a 'minor' departure. While the height at four storeys may be compatible with the buildings to the north it is incompatible with the buildings to the south and west. The applicant's streetscape analysis serves to demonstrate that the building height should scale down from the existing and older four storey building height to the lower building height to the south. A building at three storeys (maximum height of 9.5m) would be more appropriate given the narrow site width and would reduce the impact of the infill development upon the properties to the south.

While the ARH SEPP provides an opportunity to increase building density to achieve infill development in suitable locations it should not be at the detriment of the amenity of neighbouring properties and the internal amenity of proposed apartments. The impact of overshadowing and overlooking upon the property to the south at No. 8 Forsyth Street is not minor and will leave very little solar access in mid-winter, which is unacceptable. In addition, the non-compliances identified in relation to car parking, private open space, communal open space, dwelling size and setbacks under the SEPP ARH and ADG all indicate that the proposal is excessive for the site and its setting and would result in overdevelopment and an unacceptable precedent for future development.

For these reasons the applicant's Clause 4.6 submission is not supported.

3. Randwick Comprehensive DCP 2013

The DCP provisions are structured into two components, Objectives and Controls. The Objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

The relevant provisions of the DCP are addressed in the table below. (Note: a number of control provisions that are not related to the proposal have been deliberately omitted.)

B7	Transport, Traffic, Parking and Access		
3.	Parking & Service Delivery Requirements		
	Car parking requirements: 1 space per 2 studios 1 space per 1-bedroom unit (over 40m ²) 1.2 spaces per 2-bedroom unit 1.5 spaces per 3- or more bedroom unit 1 visitor space per 4 dwellings	SEPP ARH overrides DCP controls	N/A
	Motor cycle requirements: 5% of car parking requirement	1 motorbike space would be required based on the requirement of 5 car spaces under the SEPP	No
4.	Bicycles		
	Residents: 1 bike space per 2 units Visitors: 1 per 10 units	See ARH SEPP	N/A
B8	Water Management		
5.1	Flood Studies & Plans		
	(i) DAs are to identify any flood related information including flood levels, locations of floodways or overland flow paths impacting the site. (ii) Submit a site specific flood study or other calculations to demonstrate there is no adverse impact on flooding if a flood study for the catchment has not been prepared. (iii) Comply with any catchment-specific controls in an adopted Floodplain Risk Management Plan in addition to the controls in this section.	The site is not subject to any flood related development controls however the Kensington/Centennial Park Flood Study does predict some minor flooding in Harbourne Lane and Forsyth Street during major storm events. The floor levels are provided at or below adjacent gutter levels which may lead to flooding of the ground floor from gutter and surface flows in Harbourne Lane.	No
C2	Medium Density Residential		
2	Site Planning		
2.1	Site Layout Options Site layout and location of buildings must be based on a detailed site analysis and have regard to the site planning guidelines for: <ul style="list-style-type: none"> • Two block / courtyard example • T-shape example • U-shape example 	Two block design with central courtyard proposed – site analysis undertaken	Yes

	• Conventional example		
2.2	Landscaped open space and deep soil area		
2.2.1	Landscaped open space		
	A minimum of 50% of the site area (250.84m ²) is to be landscaped open space.	ARH SEPP overrides DCP requirement	N/A
2.2.2	Deep soil area		
	(i) A minimum of 25% of the site area (125.42m ²) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.	Deep soil requirement of 7% required under the ADG	N/A
	(ii) Deep soil areas must be located at ground level, be permeable, capable for the growth of vegetation and large trees and must not be built upon, occupied by spa or swimming pools or covered by impervious surfaces such as concrete, decks, terraces, outbuildings or other structures.	Some of the areas allocated as deep soil zone are under the building or are covered by decks which would not meet council's definition of deep soil. Regardless the remaining areas comply with the SEPP ARH.	N/A
	(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understory planting.	See ARH SEPP	N/A
	(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.	See ARH SEPP	N/A
	(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.	See ARH SEPP	N/A
2.3	Private and communal open space		
2.3.1	Private open space		
	Private open space is to be: (i) Directly accessible from the living area of the dwelling. (ii) Open to a northerly aspect where possible so as to maximise solar access. (iii) Be designed to provide adequate privacy for residents and where possible can also contribute to passive surveillance of common areas.	See ARH SEPP	N/A
	For residential flat buildings: (vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof garden, accessible from with the dwelling. (vii) Private open space for	See ADG and SEPP ARH tables above for compliance.	N/A

	apartments has a minimum area of 8m ² and a minimum dimension of 2m.		
2.3.2	Communal open space		
	Communal open space for residential flat building is to be: (a) Of a sufficient contiguous area, and not divided up for allocation to individual units. (b) Designed for passive surveillance. (c) Well oriented with a preferred northerly aspect to maximise solar access. (d) adequately landscaped for privacy screening and visual amenity. (e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.	See ADG compliance table above.	N/A
3	Building Envelope		
3.1	Floor space ratio		
	Under RLEP the maximum FSR permissible on a parcel of land is shown on the Floor Space Ratio Map. FSR is expressed as a ratio of the permissible gross floor area to the site area and is explained and defined in Clause 4.5 of RLEP. The site has a maximum FSR of 0.75:1.	See ARH SEPP which permits an increased density for infill affordable rental housing.	N/A
3.2	Building height		
	Building height is a major factor affecting the visual mass of a development and influences streetscape character and adjoining residential amenity. Under RLEP the maximum building height permissible on a parcel of land is shown in metres on the Height of Buildings Map. The height of buildings is measured from the natural ground level (at any point) to the highest point of the building which includes roofs, list overruns and plants, as defined in Clause 4.3 of RLEP. The Height of Buildings Map identifies a maximum building height of 9.5m	The building has a height of 12.14m which exceeds the maximum height by 2.54-2.64m (30% increase). A Clause 4.6 variation has been submitted in relation to the building height.	No
3.3	Building depth		
	For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m.	See ADG table for maximum building depth.	N/A

	Any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings / units.		
3.4	Setbacks		
3.4.1	Front setback		
	(i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries.	The front setback is 3.7m and is consistent with newer development in the street.	Yes
	(ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis.	Front setback has been considered as part of a site analysis.	Yes
	(iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings.	The front setback is free of structures.	Yes
	(iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.	The front setback includes landscape planting with the exception of hard paving to the courtyard for Unit G03.	Yes
3.4.2	Side setback		
	Residential flat building		
	(i) Comply with the minimum side setback requirements stated below: - less than 12m: merit assessment	The side setback at 2m is significantly less than the setback required under the ADG which is the superior control.	No - See ADG compliance table above
	(ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to: - Create articulations to the building facades. - Reserve open space areas and provide opportunities for landscaping.	Given the increased height of the building above the RLEP2012 maximum of 9.5m there is justification to	No

	<ul style="list-style-type: none"> - Provide building separation. - Improve visual amenity and outlook from the development and adjoining residences. - Provide visual and acoustic privacy for the development and the adjoining residences. - Ensure solar access and natural ventilation for the development and the adjoining residences. <p>(iii) A fire protection statement must be submitted where windows are proposed on the external walls of a residential flat building within 3m of the common boundaries. The statement must outline design and construction measures that will enable operation of the windows (where required) whilst still being capable of complying with the relevant provisions of the BCA.</p>	<p>seek an increased setback to the southern side boundary to improve building separation, visual and acoustic privacy and solar access for the development and adjoining residences.</p> <p>No fire protection statement has been submitted to outline design and construction measures that will enable operation of the windows (where required) whilst still being capable of complying with the relevant provisions of the BCA.</p>	<p>Not provided.</p>
3.4.3	Rear setback		
	<p>i) For residential flat buildings, provide a minimum rear setback of 15% (8.2m) of allotment depth or 5m, whichever is the greater.</p> <p>iii) The required rear setback may be varied in the following scenarios:</p> <ul style="list-style-type: none"> • Allotments with an irregular shape. • Allotments with the longest boundary abutting the street or the rear adjoining neighbour (that is, the frontage width being longer than the site depth). • Allotments with the rear boundary abutting a laneway. • A central courtyard is provided in the development. 	<p>The building is setback 800mm to the rear boundary.</p> <p>The rear setback can be varied where a central courtyard is provided in the development. While a reduced setback to the rear boundary can be justified on merit the setback at 800mm provides no opportunity for planting to offset the impact of the development to the western neighbours.</p>	<p>No</p> <p>While the allotment is narrow the development does not provide an opportunity for screen planting to the western neighbour and the central courtyard does not improve the amenity for neighbouring properties.</p>
4	Building Design		
4.1	Building façade		
	<p>(i) Buildings must be designed to address all street and laneway frontages.</p> <p>(ii) Buildings must be oriented so that the front wall alignments are parallel with the street</p>	<p>The building addresses the street and the laneway.</p> <p>The building aligns with the street property boundary.</p>	<p>Yes</p> <p>Yes</p>

	<p>property boundary or the street layout.</p> <p>(iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street.</p> <p>(iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes.</p> <p>(vi) Conceal building services and pipes within the balcony slabs.</p>	<p>The building facades are articulated at street level to present human scale.</p> <p>The building elevation is divided to avoid massive and continuous unrelieved blank walls.</p> <p>Can be provided.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
4.2	Roof design		
	<p>(i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three dimensional form (size and scale) and façade composition of the building.</p> <p>(ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access.</p> <p>(iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape.</p> <p>(iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms.</p> <p>(v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size and configuration of clerestory windows and skylights must be sympathetic to the overall design of the building and the streetscape.</p> <p>(vi) Any services and equipment, such as plant, machinery, ventilation stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet walls so that they are not readily visible from the public domain.</p>	<p>The roof design is unique to the proposed building and contains additional living areas within the curved roof space. The rooms within the roof are orientated north to respond to sun access.</p> <p>The roof is designed to maximise solar orientation to the site.</p> <p>The roof is divided into sections to reflect each apartment width.</p> <p>Full windows proposed within the rooftop apartments.</p> <p>None shown.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p>

	<p>(vii) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if:</p> <ul style="list-style-type: none"> - There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences. - The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences. - Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street. - Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building. <p>(viii) The provision of landscape planting on the roof (that is, "green roof") is encouraged. Any green roof must be designed by a qualified landscape architect or designer with details shown on a landscape plan.</p>	<p>No terraces or trafficable outdoor spaces proposed at Level 4.</p> <p>No "green roof" proposed.</p>	<p>N/A</p> <p>N/A</p>
4.3	Habitable roof space		
	<p>Habitable roof space may be considered, provided it meets the following:</p> <ul style="list-style-type: none"> - Optimises dwelling mix and layout, and assists to achieve dual aspect or cross over units with good natural ventilation. - Has a maximum floor space of 65% of the storey immediately below. - Wholly contain habitable areas within the roof space. - When viewed from the surrounding public and private domain, the roof form has the appearance of a roof. A continuous flat roof with habitable space within it will not satisfy this requirement. - Design windows to habitable roof space as an integrated element of the roof. 	<p>The use of the roof space does not contribute to dwelling mix with all one bedroom apartments. Floor space is 56% of floor below.</p> <p>Habitable areas are contained within the roof space. Roof design is curved and not a continuous flat roof.</p> <p>Windows are integrated into the roof design.</p>	<p>No</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	- Submit computer generated perspectives or photomontages showing the front and rear elevations of the development.	Photomontages submitted with DA.	Yes
4.4	External wall height and ceiling height		
	(ii) Where the site is subject to a 9.5m building height limit under the LEP, a maximum external wall height of 8m applies.	The external wall height is 9m, due to the increased height of the building.	No
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	All ceiling heights are 3.0m	Yes
4.5	Pedestrian Entry		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	Separate vehicular and pedestrian access is provided. Although site lines from the garage to Harbourne Lane would be poor.	Yes
	(ii) Present new development to the street in the following manner: <ul style="list-style-type: none"> - Locate building entries so that they relate to the pedestrian access network and desired lines. - Design the entry as a clearly identifiable element in the façade composition. - Integrate pedestrian access ramps into the overall building and landscape design. - For residential flat buildings, provide direct entries to the individual dwellings within a development from the street where possible. - Design mailboxes so that they are convenient to residents, do not clutter the appearance of the development at street frontage and are preferably integrated into a wall adjacent to the primary entry (and at 90 degrees to the street rather than along the front boundary). - Provide weather protection for building entries. 	<p>Each building entry is from Harbourne Lane which is not pedestrian friendly. Pedestrian entry is identifiable.</p> <p>Pedestrian ramps are integrated into the overall design.</p> <p>Individual entry provided to one of the ground floor apartments.</p> <p>All mailboxes are provided within the front building foyer.</p> <p>Weather protection provided to the building entry at eastern block.</p>	<p>On Merit</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
	Postal services and mailboxes (i) Mailboxes are provided in accordance with the delivery requirements of Australia Post. (ii) A mailbox must clearly mark	Mailbox location and design is acceptable.	Yes

	<p>the street number of the dwelling that it serves.</p> <p>(iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street.</p>		
4.6	Internal circulation		
	<p>(i) Enhance the amenity and safety of circulation spaces by:</p> <ul style="list-style-type: none"> - Providing natural lighting and ventilation where possible. - Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors. - Allowing adequate space for the movement of furniture. - Minimising corridor lengths to give short, clear sightlines. - Avoiding tight corners. - Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor. 	<p>Natural lighting and ventilation provided.</p> <p>Lobbies, corridors and foyers are of an acceptable size.</p> <p>Adequate space is provided.</p> <p>Corridor lengths are short and with clear sightlines.</p> <p>Acceptable.</p> <p>Corridors are not long.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
	<p>(ii) Use multiple access cores to:</p> <ul style="list-style-type: none"> - Maximise the number of pedestrian entries along a street for sites with wide frontages or corner sites. - Articulate the building façade. - Limit the number of dwelling units accessible off a single circulation core on a single level to 6 units. 	<p>One access core is provided to each building.</p> <p>The building façade is articulated.</p> <p>Seven apartments are located off each circulation core.</p>	<p>Yes</p> <p>Yes</p> <p>No but complies with ADG.</p>
	<p>(iii) Where apartments are arranged off a double-loaded corridor, limit the number of units accessible from a single core or to 8 units.</p>	<p>Seven apartments from a single core.</p>	<p>Yes</p>
4.7	Apartment layout		
	<p>(i) Maximise opportunities for natural lighting and ventilation through the following measures:</p> <ul style="list-style-type: none"> - Providing corner, cross-over, cross-through and double-height maisonette / loft apartments. - Limiting the depth of single aspect apartments to a maximum of 6m. - Providing windows or skylights to kitchen, bathroom and laundry areas where possible. 	<p>All apartments have good natural lighting and ventilation.</p> <p>All apartments are dual aspect.</p> <p>Windows are provided to kitchens and bathrooms.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

	Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.		
	(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.	Apartment layouts are flexible although, 7 apartments are undersized.	Yes
	(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development.	Each apartment has a balcony or terrace although some private open spaces are under the required size.	Yes
	(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.	Kitchens are appropriately located.	Yes
4.8	Balconies		
	(i) Provide a primary balcony and/or private courtyard for all apartments with a minimum area of 8m ² and a minimum dimension of 2m and consider secondary balconies or terraces in larger apartments.	Seven (7) apartments would have balconies that are less than 8m ² .	No
	(i) Provide a primary terrace for all ground floor apartments with a minimum depth of 4m and minimum area of 12m ² . All ground floor apartments are to have direct access to a terrace.	Ground floor apartments have terraces that are more than 12m ² .	Yes
4.9	Colours, materials and finishes		
	(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans.	A schedule of finishes is provided with the application.	Yes
	(ii) The selection of colour and material palette must complement the character and style of the building.	The proposed colours and materials complement the modern building design.	Yes
	(iv) Use the following measures to complement façade articulation: <ul style="list-style-type: none"> - Changes of colours and surface texture - Inclusion of light weight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. 	Façade includes a change of colours and surface texture.	Yes
	(v) Avoid the following materials or treatment:		

	<ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts 	No highly reflective materials are proposed.	Yes
	(vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration.	Materials are appropriate.	Yes
	(vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.	No existing sandstone blocks.	N/A
4.12	Earthworks Excavation and backfilling		
	<ul style="list-style-type: none"> (i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a building within this extent of site modification. (ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the height or depth of earthworks at any point on the site. (iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling. 	No significant earthworks or backfilling proposed.	Yes
	<p>Retaining walls</p> <ul style="list-style-type: none"> (iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries. (v) Step retaining walls in response to the natural landform to avoid creating monolithic structures visible from the neighbouring properties and the public domain. (vi) Where it is necessary to 	No retaining walls proposed.	N/A

	construct retaining walls at less than 900mm from the side or rear boundary due to site conditions, retaining walls must be stepped with each section not exceeding a maximum height of 2200mm, as measured from the ground level (existing).		
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access for proposed development		
	(i) Dwellings must receive a minimum of 3 hours sunlight in living areas and to at least 50% of the private open space between 8am and 4pm on 21 June.	N/A	N/A
	(ii) Living areas and private open spaces for at least 70% of dwellings within a residential flat building must provide direct sunlight for at least 3 hours between 8am and 4pm on 21 June.	All living areas and private open spaces within the RFB receive the sunlight required under the SEPP ARH and ADG.	Yes
	(iii) Limit the number of single-aspect apartments with a southerly aspect to a maximum of 10 percent of the total units within a residential flat building.	No single aspect apartments.	Yes
	(iv) Any variations from the minimum standard due to site constraints and orientation must demonstrate how solar access and energy efficiency is maximised.	None proposed.	N/A
	Solar access for surrounding development		
	(i) Living areas of neighbouring dwellings must receive a minimum of 3 hours access to direct sunlight to a part of a window between 8am and 4pm on 21 June.	The shadow diagrams indicate that the neighbouring site (No. 8 Forsyth Street) will experience significant overshadowing between 9am (no 8am shadow shown) and 3pm (4pm shadow not shown).	No
	(ii) At least 50% of the landscaped areas of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight to a part of a window between 8am and 4pm on 21 June.	The landscaped area of the neighbouring dwelling to the south receives less than 3 hours direct sunlight during mid winter.	No
	(iii) Where existing development currently receives less sunlight than this requirement, the new	The existing development receives sufficient sunlight.	N/A

	development is not to reduce this further.		
5.2	Natural ventilation and energy efficiency		
	(i) Provide daylight to internalised areas within each dwelling and any poorly lit habitable rooms via measures such as ventilated skylights, clerestory windows, fanlights above doorways and highlight windows in internal partition walls.	Adequate ventilation provided to the new development.	Yes
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.	Sun shading devices proposed to northern elevation.	Yes
	(iii) All habitable rooms must incorporate windows opening to outdoor areas. The sole reliance on skylight or clerestory windows for natural lighting and ventilation is not acceptable.	All habitable rooms have windows to outdoor areas.	Yes
	(iv) All new residential units must be designed to provide natural ventilation to all habitable rooms. Mechanical ventilation must not be the sole means of ventilation to habitable rooms.	Natural ventilation provided.	Yes
	(v) A minimum of 90% of residential units should be naturally cross ventilated. In cases where residential units are not naturally cross ventilated, such as single aspect apartments, the installation of ceiling fans may be required.	100% of units are naturally cross ventilated.	Yes
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.	Windows to kitchens provided.	Yes
	(vii) Developments, which seek to vary from the minimum standards, must demonstrate how natural ventilation can be satisfactorily achieved, particularly in relation to habitable rooms.	No variation to ventilation requirements proposed.	N/A
5.3	Visual privacy		
	(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings.	There are a number of windows at Levels 1 and 2 in the southern elevation which will overlook the neighbouring property and are within 2m of the common boundary.	No

	<p>(ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences.</p> <p>(iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance.</p> <p>(iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy.</p> <p>(v) Incorporate materials and design of privacy screens including:</p> <ul style="list-style-type: none"> - Translucent glazing - Fixed timber or metal slats - Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 	<p>Balconies are orientated towards the street frontages.</p> <p>The building is orientated to the two street frontages, separation is minimal and falls below the ADG requirement of 6m.</p> <p>Most of the private open space is orientated towards the street frontages, the two ground floor studio apartments have outdoor areas adjacent to the common boundary with No. 8 Forsyth Street. The ground level decks are built to the boundary with no landscaping although fences are 1.8m high.</p> <p>Some screen planting proposed to southern boundary, although maximum height 3m. Would not prevent overlooking from upper level windows.</p>	<p>Yes</p> <p>No</p> <p>Yes</p> <p>No</p>
5.4	Acoustic privacy		
	<p>(i) Design the building and layout to minimise transmission of noise between buildings and dwellings.</p> <p>(ii) Separate "quiet areas" such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities.</p> <p>(iii) Utilise appropriate measures to maximise acoustic privacy such</p>	<p>Apartments are separated by circulation cores.</p>	<p>Yes</p>

	<p>as:</p> <ul style="list-style-type: none"> - Double glazing - Operable screened balconies - Walls to courtyards - Sealing of entry doors 	Operable screened balconies are proposed to the northern elevation.	Yes
5.5	View sharing		
	(i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings.	No existing view corridors and vistas.	N/A
5.6	Safety and security		
	(i) Design buildings and spaces for safe and secure access to and within the development.	The parking spaces to Harbourne Lane have limited sightlines. Secure access is provided to the buildings through security doors.	Yes
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	Residents would need to access the building from the street, no direct access from the parking spaces to the lobby.	No
	(iv) Design window and door placement and operation to enable ventilation throughout the day and night without compromising security. The provision of natural ventilation to the interior space via balcony doors only, is deemed insufficient.	At ground level windows are provided to the street with doors to outdoor terraces to the rear.	Yes
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	The development is built to the street edge.	Yes
	(vi) Resident car parking areas must be equipped with security grilles or doors.	Security door proposed to the two car parking spaces.	Yes
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	Intercom proposed to each entry.	Yes
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	Can be provided.	Yes
	(ix) Improve opportunities for casual surveillance without compromising dwelling privacy by designing living areas with views over public spaces and communal areas, using bay	Living room windows and balconies are orientated towards the street frontages.	Yes

	windows which provide oblique views and casual views of common areas, lobbies / foyers, hallways, open space and car parks.		
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	Can be provided.	Yes
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	Can be provided.	Yes
6.1	Location		
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	Car parking is accessed off Harbourne Lane.	Yes
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.	Car parking is accessed directly off the street, there is no driveway.	Yes
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.	No setback is proposed.	No
	(iv) Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane boundary.	Parking is directly on the street frontage.	No
	(v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a basement or semi-basement for new development. (b) On grade car park may be considered for sites potentially affected by flooding. In this scenario, the car park must be located on the side or rear of the allotment away from the primary street frontage. (c) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be located towards the side and not centrally positioned across the street frontage.	Parking is provided at street level with direct access from Harbourne Lane. The site is not potentially affected by flooding. Access to parking is from the secondary street access.	No N/A N/A
6.2	Configuration		

	(i) With the exception of hardstand car spaces and garages, all car parks must be designed to allow vehicles to enter and exit in a forward direction.	Car parking is within a garage.	N/A
	(ii) For residential flat buildings, the maximum width of driveway is 6m. In addition, the width of driveway must be tapered towards the street boundary as much as possible.	Access to the parking spaces is less than 6m in width.	Yes
	(iv) Provide basement or semi-basement car parking consistent with the following requirements: (a) Provide natural ventilation. (b) Integrate ventilation grills into the façade composition and landscape design. (c) The external enclosing walls of car park must not protrude above ground level (existing) by more than 1.2m. This control does not apply to sites affected by potential flooding. (d) Use landscaping to soften or screen any car park enclosing walls. (e) Provide safe and secure access for building users, including direct access to dwellings where possible. (f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as: - Installing security doors to avoid 'black holes' in the facades. - Returning the façade finishing materials into the car park entry recess to the extent visible from the street as a minimum. - Concealing service pipes and ducts within those areas of the car park that are visible from the public domain.	No basement car parking proposed.	N/A
7	Fencing and Ancillary Development		
7.1	Fencing		
	(i) Fences are constructed with durable materials that are suitable for their purpose and can properly withstand wear and	Fencing is as existing or 1.8m high timber fencing to match existing.	Yes

	<p>tear and natural weathering.</p> <p>(ii) Sandstone fencing must not be rendered and painted.</p> <p>(iii) The following materials must not be used in fences:</p> <ul style="list-style-type: none"> - Steel post and chain wire - Barbed wire or other dangerous materials <p>(ii) Expansive surfaces of blank rendered masonry to street frontages must be avoided.</p>		
7.2	Front Fencing		
	(i) The fence must align with the front property boundary or the predominant fence setback line along the street.	Front fencing aligns with boundary.	Yes
	(ii) The maximum height of front fencing is limited to 1200mm, as measured from the footpath level, with the solid portion not exceeding 600mm, except for piers. The maximum height of front fencing may be increased to 1800mm, provided the upper two-thirds are partially open, except for piers.	Front fencing is open and less than 1.2m.	Yes
	(iii) Construct the non-solid portion of the fence with light weight materials that are at least 30% open and evenly distributed along the full length of the fence.	Can comply.	Yes
	(iv) Solid front fence of up to 1800mm in height may be permitted in the following scenarios: <ul style="list-style-type: none"> - Front fence for sites facing arterial roads. - Fence on the secondary street frontage of corner allotments, which is behind the alignment of the primary street façade. <p>Such solid fences must be articulated through a combination of materials, finishes and details, and/or incorporate landscaping, so as to avoid continuous blank walls.</p>	Solid fencing not proposed.	N/A
	(v) The fence must incorporate stepping to follow any change in level along the street boundary. The height of the fence may exceed the aforementioned numerical requirement by a maximum of 150mm adjacent to any stepping.	Stepping not required.	N/A
	(vi) The preferred materials for front fences are natural stone, face	Open metal fencing proposed, consistent	Yes

	bricks and timber.	with neighbours.	
	(vii) Gates must not open over public land.	Can comply.	Yes
	(viii) The fence adjacent to the driveway may be required to be splayed to ensure adequate sightlines for drivers and pedestrians.	No driveway proposed.	N/A
7.3	Side and Rear Fencing		
	<p>(i) The maximum height of side, rear or common boundary fences is limited to 1800mm, as measured from the ground level (existing). For sloping sites, the fence must be stepped to follow the topography of the land, with each step not exceeding 2200mm above ground level (existing).</p> <p>(ii) In the scenario where there is significant level difference between the subject and adjoining allotments, the fencing height will be considered on merits.</p> <p>(iii) The side fence must be tapered down to match the height of the front fence once pasts the front façade alignment.</p> <p>(iv) Side or common boundary fences must be finished or treated on both sides.</p>	Side and rear fencing is no more than 1.8m.	Yes
7.6	Storage		
	<p>(i) The design of development must provide for readily accessible and separately contained storage areas for each dwelling.</p> <p>(ii) Storage facilities may be provided in basement or sub floor areas, or attached to garages. Where basement storage is provided, it should not compromise any natural ventilation in the car park, reduce sight lines or obstruct pedestrian access to the parked vehicles.</p> <p>(iii) In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <p>(a) Studio apartments – 6m³</p> <p>(a) 1-bedroom apartments – 6m³</p>	<p>Storage is provided within each apartment.</p> <p>Most of the apartments (G01, G02, 101, 102, 201-207) have less than 6m³ of storage.</p>	<p>Yes</p> <p>No</p>

7.7	Laundry facilities		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.	Not provided.	No
	(ii) Provide internal laundry for each dwelling unit.	Washing machines are provided in each unit.	Yes
	(iii) Provide a separate service balcony for clothes drying for dwelling units where possible. Where this is not feasible, reserve a space for clothes drying within the sole balcony and use suitable balustrades to screen it to avoid visual clutter.	Separate service balconies not provided. Some balconies are screened with Alucobond.	Yes
7.8	Air conditioning units:		
	<ul style="list-style-type: none"> Avoid installing within window frames. If installed in balconies, screen by suitable balustrades. Air conditioning units must not be installed within window frames. 	Can comply.	Yes

4. Section 79C Environmental Assessment

The site has been inspected and the application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act, 1979, as amended.

Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	<p>Randwick Local Environmental Plan 2012 (Consolidation).</p> <p>The site is zoned Residential R3 Medium Density under Randwick Local Environmental Plan 2012 and the proposal is permissible with Council's consent. See table below for compliance with development standards.</p> <p>While the proposal is consistent with the specific objective of the zone in that the proposed activity will provide the housing needs of the community it is considered that it does not meet the objectives of the zone in relation to built form, aesthetic character and protecting the amenity of the local residents.</p>
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 79C(1)(a)(iii) – Provisions of any development control plan	The proposal raises a number of non-compliances in relation to the objectives and controls of the Randwick Comprehensive DCP 2013. See table below.
Section 79C(1)(a)(iiia) – Provisions of any Planning Agreement or	Not applicable.

Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
draft Planning Agreement	
Section 79C(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 79C(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is considered to be inconsistent with the dominant and intended future residential character in the locality. The proposal raises a number of assessment concerns with respect to the built environment which are discussed further below.</p>
Section 79C(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport and the locality is considered suitable for infill affordable housing. However, the excessive height, building footprint, relationship to neighbouring properties and poor standard of accommodation proposed all indicate that the site is not suitable for the development as proposed.
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 79C(1)(e) – The public interest	A revised proposal which complies with the building height controls and increases setbacks would be more in keeping with the zone objectives and in turn the public interest. The layout of apartments would also require revision to improve internal amenity and improve dimensions and utility of interior and open spaces. In its current form the proposal is an overdevelopment of the site which will result in a significant negative impact upon the character of the area and the amenity of neighbouring properties and the internal amenity of apartments. The proposed non-compliances are considered to seek an undesirable precedent with potential detrimental outcomes. It is not considered to be in the public interest.

5. Referral Comments

Development Engineer – Council's Development Engineer has reviewed the proposed development and concluded that the proposal cannot be supported by Development Engineering due to significant issues with parking and pedestrian access.

Furthermore, engineering advice provided in pre-lodgment application PL/8/2017 has not been incorporated into the application. Matters raised include:

- Laneway: The application proposes primary pedestrian entrances and vehicular access from a minor laneway (Harbourne lane). Development Engineering would not support this development unless adequate provision for pedestrian access is provided along Harbourne lane;

- Parking: The parking deficiency is vastly excessive and in combination with the loss of the on-street space in Harbourne lane is likely to lead to a significant and unacceptable impact on the surrounding availability of on-street parking.
- The lack of motorbike parking is not supported especially in the context of the shortfall of vehicle parking.
- Flooding: In light of the Kensington/Centennial Park Flood Study (which predicts some minor flooding in Harbourne Lane and Forsyth Street during major storm events) it is not supported that floor levels be provided at or below adjacent gutter levels as proposed. The proposed development may lead to flooding of the ground floor from gutter and surface flows in Harbourne Lane.

As such, on engineering grounds the proposal cannot be supported and the above issues have been included as reasons for refusal.

6. Recommendation

A. That Council, as the consent authority, refuse development consent under Section 80 of the Environmental Planning and Assessment Act 1979 to Development Application No. for permission to *Demolish of all structures on site and construction of a new 4 storey in-fill affordable housing in two buildings with a total of 14 dwellings, ground level parking for 2 vehicles, communal open space, associated site and landscaping works (variation to building height and floor space ratio controls) for 6 Forsyth Street, Kingsford* for the following reasons:-

1. The proposal is contrary to the planning controls contained in the State Environmental Planning Policy (Affordable Rental Housing) 2009 in particular, the proposal is deficient in terms of the provision of on-site car parking for the development required under Clause 14(2)(a)(ii), the proposal is incompatible with the character of the local area required under Clause 16A, the development proposes undersized one bedroom apartments under Clause 14(2)(b)(ii) and deficient deep soil zone under Clause 14(1)(d) resulting in substandard accommodation and a poor level of amenity for future occupants of the development;
2. The proposal exceeds the Floor Space Ratio for the site as the percentage of gross floor area of the development to be used for affordable housing is less than that required by Clause 13(2)(a)(ii) of the State Environmental Planning Policy (Affordable Rental Housing) 2009.
3. The proposal is inconsistent with the 'Design quality principles' of the State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development, in particular Principle 1 'Context and neighbouring character', Principle 2 'Built form and scale', Principle 3 'Density', Principle 6 'Amenity' and Principle 8 'Housing diversity and social interaction' and the proposal contributes to overdevelopment of the site, a built form not in keeping with the neighbouring character and a poor level of amenity for future occupants.
4. The proposal is contrary to planning controls contained within State Environmental Planning Policy No. 65 'Design Quality of Residential Apartment Development' and the design controls within the Apartment Design Guide. In particular, there are shortfalls in the size of apartments, separation distances, outdoor private open space and communal open space. The proposal results in poor amenity for the occupants of the proposed apartments and reduces amenity for occupants of the adjoining properties.
5. The Clause 4.6 variation submitted in relation to 'building height' is not supported as the proposal contributes to an unacceptable building height contrary to the objectives for the development standards and contributing to overdevelopment of the site.

6. The proposal exceeds the maximum permitted Floor Space Ratio under Clause 13 of State Environmental Planning Policy (Affordable Rental Housing) 2009, without submission of a Clause 4.6 variation to justify the non-compliance.
7. The proposed development fails to satisfy the objectives and controls of the Randwick Comprehensive Development Control Plan 2013, in relation to the following:

Part B7 – Transport, traffic, parking and access

- 3.2 Vehicle parking rates

Part B8 – Water Management

- 5.1 Flood Studies and Plans

Part C2 – Medium Density Residential

- 2.3.1 Private Open Space
- 3.1 Floor Space Ratio
- 3.2 Building Height
- 3.4 Setbacks
- 4.4 External Wall Height
- 4.8 Balconies
- 5.1 Solar access and overshadowing
- 5.3 Visual Privacy
- 6.0 Car parking and access
- 7.6 Storage
- 7.7 Laundry facilities and air-conditioning units

The proposal does not provide a suitable mix of dwellings, adequate outdoor spaces and will contribute to overshadowing and a loss of privacy to the neighbouring properties as a result of the height and relationship of the development to the adjoining sites.

8. Insufficient information has been provided and conclusions on environmental impacts cannot be made in terms of potential flooding in Harbourne Lane and Forsyth Street in relation to the floor levels of the proposed development.
9. The proposed development does not promote the orderly development of land in accordance with the objectives of the Environmental Planning and Assessment Act 1979.
10. The proposal is unacceptable pursuant to the provisions of Section 79C(e) to the Environmental Planning and Assessment Act, 1979 in that the proposal's non-compliances and inconsistencies with the provisions of adopted environmental planning instruments and a development control plan together with the public submissions received are not in the public interest. The proposal would set an undesirable precedent for building height and standard of accommodation for infill affordable housing in the locality.