

Development Application Compliance Report



Folder/DA No:	DA/564/2017
Property:	33 Todman Avenue, Kensington
Proposal:	Ground and first floor alterations and additions to existing dwelling. (Heritage Conservation Area).
Recommendation:	Approval

Relevant Environment Planning Instruments:

1. SEPP - BASIX

The applicant has submitted a BASIX certificate. The plans have been checked with regard to the certificate and they are consistent with the requirements indicated for DA stage. Standard conditions of consent requiring the continued compliance of the development with the BASIX certificate are recommended.

2. Randwick LEP 2012

The subject site is zoned R2 under Randwick LEP 2012. The proposal development is classified as a dwelling house and is permissible in the zone. The zoning objectives are addressed as follows:

Objectives of Zone

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

Assessment

Subject to a condition requiring the deletion of the garage, the proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will provide the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.

As discussed within the executive summary report, the proposed garage is inconsistent with the character of the street as there are no examples of shall garages forward of the dwelling along this part of the street and the proposed garage would adversely alter the streetscape appearance of the site. Further, the garage would set an undesirable precedent.

Heritage

Subject to a condition requiring the deletion of the garage (see executive summary report), the proposal is consistent with the specific objectives concerning heritage conservation. In particular, the proposal will not remove or conflict with significant heritage features. The proposed first floor addition is set behind the dwelling and will not be visible from the streetscape. Conditions have been recommended to ensure appropriate finishes.

The following Clauses of RLEP 2012 apply to the proposal:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	0.6:1	0.34:1	Yes
Height of Building (Maximum)	9.5m	5.8m (new component)	Yes

3. Randwick Comprehensive DCP

3.1 C1 Table: Low Density Residential

Randwick Development Control Plan

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

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

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site Planning		
2.3	Site Coverage		
	up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45%	Site = 689.2m ² Proposed = 37%	Complies
2.4	Landscaping and Permeable Surfaces		
	i) Up to 300 sqm = 20% ii) 301 to 450 sqm = 25% iii) 451 to 600 sqm = 30% iv) 601 sqm or above = 35% v) Deep soil minimum width 900mm. vi) Maximise permeable surfaces to front vii) Retain existing or replace mature native trees viii) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply. ix) Locating paved areas, underground services away from root zones.	Proposed = 46%	Complies
2.5	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	Up to 300 sqm = 5m x 5m 301 to 450 sqm = 6m x 6m 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m	Proposed = Unchanged.	N/A
3	Building Envelope		

DCP Clause	Controls	Proposal	Compliance
3.1	Floor space ratio LEP 2012 = 0.6:1	Proposed FSR = 0.34:1	Complies
3.2	Building Height		
	Maximum overall height LEP 2012 = 9.5m	Proposed = 5.8m (new component)	Complies
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	Proposed = 5.5m	Complies
3.3	Setbacks		
3.3.1	Front setbacks i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front	Proposed = Dwelling unchanged. Garage within front setback – see executive summary report.	See executive summary report.
3.3.2	Side setbacks: Semi-Detached Dwellings: • Frontage less than 6m = merit • Frontage b/w 6m and 8m = 900mm for all levels Dwellings: • Frontage less than 9m = 900mm • Frontage b/w 9m and 12m = 900mm (Gnd & 1 st floor) 1500mm above • <u>Frontage over 12m = 1200mm (Gnd & 1st floor), 1500mm above.</u> Refer to 6.3 and 7.4 for parking facilities and outbuildings	Proposed = 2.5m	Complies
3.3.3	Rear setbacks i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or demonstrate not required, having regard to: - Existing predominant rear setback line - reasonable view sharing (public and private) - protect the privacy and solar access iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions of this DCP.	Proposed = 9.5m (new component)	Complies

DCP Clause	Controls	Proposal	Compliance
	iv) For irregularly shaped lots = merit assessment on basis of:- <ul style="list-style-type: none"> - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts Refer to 6.3 and 7.4 for parking facilities and outbuildings		
4	Building design		
4.1	General		
	Respond specifically to the site characteristics and the surrounding natural and built context - <ul style="list-style-type: none"> • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design 	No new elevation to feature an unarticulated length exceeding 12m.	Complies
4.4	Roof Design and Features		
	i) Rooftop terraces on dwelling (not roof) ii) Roof terraces above garages (low side) Dormers iii) Dormer windows don't dominate iv) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof. v) Multiple dormers consistent vi) Suitable for existing <ul style="list-style-type: none"> • Celestial windows and skylights vii) Sympathetic to design of dwelling Mechanical equipment viii) Contained within roof form and not visible from street and surrounding properties.	No rooftop terraces or mechanical equipment, or dormers proposed to dwelling.	Complies
4.5	Colours, Materials and Finishes		
	i) Schedule of materials and finishes ii) Finishing is durable and non-reflective. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climatic to withstand natural weathering, ageing and deterioration. vi) recycled and re-use sandstone (See also section 8.3 foreshore area.)	Condition recommended – details to be submitted and approved post-approval.	Complies
4.6	Earthworks		
	i) excavation and backfilling limited to 1m, unless gradient too steep ii) minimum 900mm side and rear setback	Excavations up to 2.5m deep proposed for garage. Side setback of 800mm.	Garage and associated works recommended

DCP Clause	Controls	Proposal	Compliance
	iii) Step retaining walls iv) site conditions allow for side or rear setback less than 900mm (max 2.2m) v) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vi) cut and fill for POS is terraced where site has significant slope: vii) adopt a split-level design viii) Minimise height and extent of any exposed under-croft areas.		for deletion – (refer executive summary report).
5	Amenity		
5.1	Solar Access and Overshadowing		
	Solar Access to Proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	No new living room windows and no impact rear POS	Complies
	Solar Access to Neighbouring Development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may acceptable be subject to: <ul style="list-style-type: none"> • Degree of meeting the FSR, height, setbacks and site coverage controls. • Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. • Topography of the subject and adjoining allotments. • Location and level of the windows 	Low roof form relative to existing and site orientation preserves solar access to neighbouring sites.	Complies

DCP Clause	Controls	Proposal	Compliance
	<p>in question.</p> <ul style="list-style-type: none"> Shadows cast by existing buildings on the neighbouring allotments. 		
5.2	Energy Efficiency and Natural Ventilation		
	<p>i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as:</p> <ul style="list-style-type: none"> Skylights (ventilated) Clerestory windows Fanlights above doorways Highlight windows in internal partition walls living rooms contain windows and doors opening to outdoor areas <p><i>Note:</i> The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</p>	Appropriate amount and positioning of glazing and openings for daylight and ventilation to the interior.	Complies
5.3	Visual Privacy		
	Windows		
	<p>i) Minimise any direct viewing habitable of proposed and neighbours' habitable room windows by one or more of the following measures:</p> <ul style="list-style-type: none"> windows are offset or staggered minimum 1600mm window sills Install fixed and translucent glazing up 1600mm minimum effective sill. Install fixed privacy screens to windows. Creating a recessed courtyard (minimum 3m x 2m). <p>ii) orientate living and dining windows away from similar opposite (that is front or rear or side courtyard)</p>	No new side facing habitable room windows. Condition for 1.6m effective sill heights to rear windows.	Condition for compliance.
	Balcony		
	<p>i) Upper floor balconies to street or rear yard of the site. (wrap around balcony to have a narrow width at side)</p> <p>ii) Privacy screens</p> <p>iii) minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers)</p> <p>iv) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure)</p> <p>v) vi) For sloping sites, step down and avoid large areas of ground floor decks or terraces.</p>	Raised front lawn above proposed garage to be deleted – refer executive summary report.	Complies
5.4	Acoustic Privacy		

DCP Clause	Controls	Proposal	Compliance
	i) Noise sources not located adjacent to adjoining dwellings bedroom windows.	Appropriate layout for acoustic privacy.	Complies
5.5	Safety and Security		
	i) dwellings main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 square metres) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not obstruct casual surveillance (maintain safe access)	Entry position and casual surveillance generally unchanged.	Complies
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) retaining existing views from the living areas are a priority over low use rooms iii) retaining views for the public domain takes priority over views for the private properties iv) fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA. (certified height poles used)	No view corridors have been identified as being impeded.	N/A
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street or iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. <i>Note: See 6.2 parking facilities forward of the front façade alignment may be considered.</i> iv) Single width garage/carport if frontage <12m; Double width if: - Frontage >12m, - Consistent with pattern in the street; - Landscaping provided in the front yard. v) Minimise excavation for basement garages and scale of the front elevation vi) Avoid long driveways (impermeable	One vehicle access. Forward of the front façade – see 6.2, below. Double garage, frontage over 12m. Inconsistent with pattern in the street. Excavation minimised. No long driveways.	Non-compliant – garage recommended for deletion (refer executive summary report).

DCP Clause	Controls	Proposal	Compliance
	surfaces)		
6.2	Parking Facilities forward of front façade alignment (if other options not available)		
	<ul style="list-style-type: none"> i) - An uncovered single car space - A single carport (max. external width of not more than 3m and - Landscaping incorporated in site frontage ii) Regardless of the site's frontage width, the provision of garages (single or double width) within the front setback areas may only be considered where: <ul style="list-style-type: none"> - There is no alternative, feasible location for accommodating car parking; iii) Regardless of site's frontage, the forward parking structures are only considered where: <ul style="list-style-type: none"> - no alternative or feasible location - Significant slope down to street level - does not adversely affect the visual amenity of the street and the surrounding areas; - does not pose risk to pedestrian safety and - does not require significant contributory landscape elements (such as rock outcrop or sandstone retaining walls) 	Refer executive summary report.	Non-compliant – garage recommended for deletion (refer executive summary report).
6.3	Setbacks of Parking Facilities		
	<ul style="list-style-type: none"> i) Garages and carports comply with Sub-Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: <ul style="list-style-type: none"> - nil side setback on adjoining property; - streetscape compatibility; - safe for drivers and pedestrians; and - Amalgamated driveway crossing. 	800mm side setback.	Non-compliant – garage recommended for deletion (refer executive summary report).
6.4	Driveway Configuration		
	<p>Maximum driveway width:</p> <ul style="list-style-type: none"> - Single driveway – 3m - Double driveway – 5m <p>Must taper driveway width at street boundary and at property boundary.</p>	Double garage at front boundary. No driveway	Complies
6.5	Garage Configuration		
	<ul style="list-style-type: none"> i) recessed behind front of dwelling ii) The maximum garage width (door and piers or columns): <ul style="list-style-type: none"> - Single garage – 3m - Double garage – 6m iii) 5.4m minimum length of a garage iv) 2.6m max wall height of detached garages 	<p>Garage proposed forward of the dwelling.</p> <p>5.2m wide garage door.</p> <p>5.6m internal length.</p>	Non-compliant – garage recommended for deletion (refer executive summary report).

DCP Clause	Controls	Proposal	Compliance
	v) recess garage door 200mm to 300mm behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) minimum clearance 2.2m AS2890.1	3.7m wall height to garage. 200mm garage door recess. 1.6m bulkhead height. 2.05m clearance.	
7	Fencing and Ancillary Development		
7.1	General - Fencing		
	i) Use durable materials ii) sandstone not rendered or painted iii) don't use steel post and chain wire, barbed wire or dangerous materials iv) Avoid expansive surfaces of blank rendered masonry to street	No new fencing proposed.	N/A
7.6	Air Conditioning Equipment		
	i) Minimise visibility from street. ii) Avoid locating on the street or laneway elevation of buildings. iii) Screen roof mounted A/C from view by parapet walls, or within the roof form. iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings.	None proposed.	N/A
7.8	Clothes Drying Facilities		
	i) Located behind the front alignment and not be prominently visible from the street	Room within rear.	Complies

4. 79C Matters for Consideration

Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	See comments above.
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 generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table above and key issues discussion.
Section 79C(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 79C(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.

Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
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 consistent with the dominant residential character in the locality. The proposal will not result in detrimental social or economic impacts on the locality.</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. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions have been received in relation to the proposal.
Section 79C(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

5. Referral Comments

Preliminary Development Engineering and Landscape Officer Comments

Parking Comments

There is currently no off-street parking available on the site and the applicant is seeking to provide 2 off-street carspaces within a proposed double garage accessed from Todman Avenue. This will enable the subject property to fully comply with its off-street parking obligations under Part B7 of Council's DCP. The proposed garage shall comply with the minimum requirements of Australian standard 2890.1

Vehicle Access

It is noted the vehicle access will be in close proximity to a bus stop located just to the west of the proposed crossing. A bus picking up/dropping off passengers at the stop would most likely block access to the crossing, however given it will only be serving a double garage and the low probability of conflict no objections are raised. The seat located adjacent to the bus stop is also located sufficiently away to not create any safety concerns.

It is also noted that a child care is located next door to the property at No.31 Todman Avenue on the corner with Carminya Street. All formal pickup and drop-off associated with the operation of child care centre is undertaken from Carminya Street (see DA/597/2015) hence the proposed crossing will not impact on Childcare Centre operations.

Tree Management Comments

There is a mature, 7-8m tall *Lophostemon confertus* (Brush Box) on the Council verge, just south of the existing centrally located pedestrian stairs/gate, of excellent health and condition, which is covered by the DCP, and provides a contribution to the streetscape and heritage characteristics of the area.

The plans show a new vehicle crossing over the northern half of the site, with excavations for its southern edge to be offset a distance of about 4 metres from its trunk, which will be well outside of its SRZ, but may still encroach slightly into its less critical TPZ.

However, as works will be relatively shallow in depth, 200-300mm, and restricted to the northern side of its root plate only, any disturbance will be an amount that the tree can sustain with no major impact, particularly given the resilience of the species, and as such, relevant protection conditions and a bond have imposed to ensure that it continues as a feature of the streetscape.

Should clearance pruning be needed, conditions also require that this only be performed by Council, wholly at the applicant's cost.

In the raised front setback, along the southern site boundary, between the front boundary and dwelling, there are two mature, evenly spaced, 8-10m tall *Syzygium paniculatum* (Brush Cherry's) growing in a narrow, slightly raised garden bed, which provide effective screening of the adjoining multi-story unit block, but as they are sited well clear of all works associated with this application, will not be affected, with conditions not required.

The previous report of 23 October 2017 was in the form of an Issues Paper, and described that, despite not being shown on any of the plans or survey, growing beyond the northern site boundary, wholly in the front yard of the adjoining private property at no.31, close to the common boundary, there is a mature, 10m x 10m *Glochidion ferdinandii* (Cheese Tree), which is an endemic species to the LGA, is covered by the DCP, and is in good health and condition.

Council has a common law responsibility to ensure this tree is not affected in anyway by these works, and while no measurements have been provided on the plans, when scaled off dwg DA03, it has been confirmed that the northern wall of the new double garage will be offset 800mm from the common boundary, to a depth of 1790mm, and while this will maintain an area of undisturbed deep soil directly adjacent its trunk, these works still have the potential to cause root damage that would have a direct impact on the tree.

AS4970 -2009: Protection of tree on development sites, requires that in such cases, it must be demonstrated how a tree can remain viable, and for these reasons, the applicant was requested to hand dig a trench for the purpose of root mapping, so as to gain a clearer understanding of the amount of root activity that may be present in the area, which would inform the potential impacts on the tree; prior to granting any type of consent.

A trench measuring 3m in length (1.5m each to both the east and west of its trunk), as well as 700mm deep and 300mm wide, at an offset of 1700mm from the common boundary (existing garden bed/plants prevented a trench being provided closer to the boundary) was inspected on 25 January 2018 at 11:45am, where a sandy loam soil type was observed, along with a complete absence of any major structural roots, which is an encouraging outcome as 90% of roots are found in the top 900mm of soil.

Regardless, for a tree of this size, it is still highly likely that roots will be encountered during the course of the works, as the soil type may have simply allowed roots to grow deeper into the profile; however, based on the findings of the trench, it is deemed feasible to proceed with the works as shown, subject to compliance with the site specific protection measures that have been included in this report, including the requirement for site inspections by Council's Landscape Development Officer at critical stages, as this will ensure a high degree of compliance, and therefore minimize any impacts that may arise.

It is noted that, if a re-design is pursued for whatever reason, then this tree would be greatly benefited by increasing the setback of any works from the northern site boundary.

Clearance pruning of lower, overhanging branches may be required, with conditions again allowing this, providing that it is only performed only by a qualified Arborist, and in conjunction with an inspection and directions of Council's officer.

Similarly, pruning of the northeast aspect of the tree that is growing in the rear yard of the subject site, adjacent the southwest corner of the existing dwelling, may also be required so as to avoid conflict with the minor addition shown for Level 1 and the roof, and as it is only a minor amount, conditions allow this.

Consultant Heritage Planner Comments

Heritage Impact Report

A Heritage Impact Report has been provided addressing the key aspects of the existing building and the impact of the proposed works upon the contributory value of the residence to the Conservation Area.

The specific construction time of the subject residence has not been included in the applicant's heritage report but is assumed to date from the Inter War years.

The applicant's Heritage Report does not include alternate locations or edge treatments for the proposed garage or the option of a single vehicle garage.

The comparable developments identified in the application are not in the immediate context of Todman Avenue, which has no garages constructed to the street frontage in the immediate or middle distance from the site.

Form and Extent of Additions

- The proposed works to the rear of the residence provide limited construction in areas of later alteration. These are considered to have minimal impact upon the contributory value of the building to the Conservation Area.
- The proposed double garage to the street frontage has a considerable impact upon the street frontage and the cohesion of this with the adjacent residential frontage to the west. There are no comparable garages evident in the immediate vicinity.
- The treatment of the garage upstand above the entry door; the lack of continuity of planting along the exposed side elevation and the overall scale of the garage are considered to impact on the setting and Conservation Area.
- The garage does not comply with statutory requirements in Randwick DCP
- The garage as proposed is not supported.

Compliance with Controls

The following specific controls of Randwick DCP are considered not complied with in the design of the garage.

Randwick Development Control Plan 2013 – Heritage; requires that where buildings are Heritage Items or Contributory Buildings:

Additions must not visually dominate, compete with or conceal the original form and massing of the existing buildings [Randwick DCP 2013 B2 Heritage 2.3 (iv)]

And

Randwick DCP B2 Heritage 2.9 Garages, carports Carspaces and Driveways:

1. Controls

All Development

1. i) Existing rear lane access or side street access (where available) must be utilised for carparking in preference to front access.
2. ii) Carparking structures are to be located to the side, or preferably to the rear of the building. Garages and carports must not be located forward of the building line.
3. iii) Open hard stand carspaces may be provided forward of the building line, but must be located adjacent to a side boundary, and generally not be greater than single car width.
4. iv) Existing building fabric, including verandas and balconies, must not be altered to allow for the provision of a carparking structure or an open stand carspace.

5. v) Open hard stand carspaces must not dominate the setting of the building in terms of loss of planting, fencing or retaining walls.
6. vi) Carparking structures are to be unobtrusive and must be of materials, form and details which harmonise with and do not obscure views of the building. They must not be made larger by the provision of a bulky pitched roof.

Recommendations

The proposed garage is not supported in its current form due to non-compliance with Council Controls and lack of cohesion with the West Kensington Heritage Conservation Area.

Opportunity for a less obtrusive vehicle hardstand is limited. Provision of a hardstand to the eastern side of the site appears unfeasible due to the presence of an established street tree forward of the site and two mature trees in the front yard near the eastern boundary.

Providing a single hardstand to the western side boundary may provide a cohesive response subject to;

- The hardstand being of single vehicle width.
- The headstand entry having a well detailed gate cohesive with the existing stone retaining wall.
- The hardstand being surrounded by hedging continuing the established hedge planting to the street frontage.

6. DEVELOPMENT CONSENT CONDITIONS

GENERAL CONDITIONS

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

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

Approved Plans & Supporting Documentation

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
DA05 to DA07	Virginia Zanarini & Associates	7 September 2017

BASIX Certificate No.	Dated
A292093	5 September 2017

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. Consent is not granted for the construction of the garage and associated works.
 - b. The following window/s must have a minimum sill height of 1.6m above floor level, or alternatively, the window/s are to be fixed and be provided with translucent, obscured, frosted or sandblasted glazing below this specified height:
 - W2
 - W3
 - W4
 - W5

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

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

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

Consent Requirements

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

External Colours, Materials & Finishes

4. The colours, materials and finishes of the external surfaces to the building are to be compatible with the existing building and surrounding buildings in the heritage conservation area and consistent with the architectural style of the building. Details of the proposed colours, materials and textures (ie- a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Director City Planning, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.

5. Details of the proposed paint scheme are to be submitted to and approved by Council's Director City Planning, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development. Unpainted surfaces, e.g. - brickwork/stonework are to remain unpainted, and no applied finishes are to be used.

Section 94A Development Contributions

6. In accordance with Council's Section 94A Development Contributions Plan effective from 21 April 2015, based on the development cost of \$191,950 the following applicable monetary levy must be paid to Council: \$959.75.

The levy must be paid in **cash, bank cheque** or by **credit card** prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9093 6999 or 1300 722 542 for the indexed contribution amount prior to payment.

To calculate the indexed levy, the following formula must be used:

$$\mathbf{IDC = ODC \times CP2/CP1}$$

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.

Council's Section 94A Development Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.

Compliance Fee

7. A development compliance and enforcement fee of \$191.95 shall be paid to Council in accordance with Council's adopted Fees & Charges Pricing Policy, prior to the issue of a Construction Certificate for development.

Long Service Levy Payments

8. 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.

Sydney Water

9. 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

10. In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the

provisions of the Building Code of Australia (BCA). Details of compliance with the BCA are to be included in the construction certificate application.

Structural Adequacy

11. Certificate of Adequacy supplied by a *professional engineer* shall be submitted to the *certifying authority (and the Council, if the Council is not the certifying authority)*, certifying the structural adequacy of the existing structure to support the upper floor addition.

BASIX Requirements

12. In accordance with section 80A(11) of the *Environmental Planning & Assessment Act 1979* and clause 97A of the *Environmental Planning & Assessment Regulation 2000*, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.

The required commitments listed and identified in the BASIX Certificate must be included on the construction certificate plans, specifications and associated documentation, to the satisfaction of the Certifying Authority.

The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.

Stormwater Drainage

13. 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

14. 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.

Home Building Act 1989

15. 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

16. A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified independent person, in the following cases:
- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures 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 other substantial structures 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 dilapidation report shall include details of the current condition and status of any dwelling, associated garage or other substantial structure located upon the adjoining premises and shall include relevant photographs of the structures, to the satisfaction of the *Principal Certifying Authority*.

The dilapidation report must be submitted to the Council, the *Principal Certifying Authority* and the owners of the adjoining/nearby premises encompassed in the report, prior to commencing any site works (including any demolition work, excavation work or building work).

Construction Noise & Vibration Management

17. 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.

Construction Site Management Plan

18. A *Construction Site Management Plan* must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development:

- location and construction of protective fencing / hoardings to the perimeter of the site;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;
- provisions for public safety;
- dust control measures;
- site access location and construction;
- details of methods of disposal of demolition materials;
- protective measures for tree preservation;
- provisions for temporary sanitary facilities;
- location and size of waste containers/bulk bins;
- details of proposed sediment and erosion control measures;
- provisions for temporary stormwater drainage;
- construction noise and vibration management;
- construction traffic management details.

The site management measures must be implemented prior to the *commencement of any site works and be maintained throughout the works.*

A copy of the Construction Site Management Plan must be provided to the Principal Certifying Authority and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.

Demolition Work Plan

19. Demolition work must be carried out in accordance with Australian Standard AS2601-2001, Demolition of Structures and relevant environmental/work health and safety requirements.

A *Demolition Work Plan* must be prepared for the demolition works which shall be submitted to the Principal Certifying Authority (PCA), not less than two (2) working days before commencing any demolition work. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.

If the work involves asbestos products or materials, a copy of the Demolition Work Plan must also be provided to Council not less than 2 days before commencing those works.

Public Utilities

20. 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.

21. The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.

REQUIREMENTS 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

22. Building works are required to 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

23. 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

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

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Excavating or sawing 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.

Removal of Asbestos Materials

25. 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 Safework 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 assessor or other competent person), 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 or a copy can be obtained from Council's Customer Service Centre.

Public Safety & Site Management

26. 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) 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, and 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. Applications to place a waste container in a public place can be made to Council's Health, Building and Regulatory Services department.
- g) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.

Support of Adjoining Land, Excavations & Retaining Walls

27. 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.
28. 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.

29. 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

30. There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.

Pruning

31. Permission is granted for the minimal and selective pruning of only those lower growing, lower order branches from the northeast aspect of the Lilly Pilly that is located in the rear setback of the subject site, along the southern boundary, adjacent the southwest corner of the dwelling, so as to provide a suitable clearance for the works shown for the First Floor in this same area.
32. This approval does not imply any right of entry onto a neighbouring property nor does it allow pruning beyond a common boundary; however, where such measures are desirable in the best interests of correct pruning procedures, and ultimately, the ongoing health of this tree, the applicant must negotiate with the neighbour/tree owner for access to perform this work.
33. All pruning can only be undertaken by a practicing Arborist who holds a minimum of AQF Level III in Arboriculture, and to the requirements of Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and NSW Work Cover Code of Practice for the Amenity Tree Industry (1998).
34. **The practicing Arborist must contact Council's Landscape Development Officer on 9093-6613 (giving at least 2 working days-notice) to arrange a joint site meeting, prior to pruning, to determine the exact location and extent that is permissible, with the Arborist to comply with any instructions issued by Council.**

Road / Asset Opening Permit

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

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

For further information, please contact Council's Road / Asset Opening Officer on 9093 6691 or 1300 722 542.

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

36. 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*.

BASIX Requirements

37. In accordance with Clause 154B of the *Environmental Planning & Assessment Regulation 2000*, a Certifying Authority must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.

Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing an Occupation Certificate.

Council's Infrastructure & Vehicular Crossings

38. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works" and the following requirements:

- a) All work on Council land must be carried out by Council, unless specific written approval has been obtained from Council to use non-Council contractors.
- b) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a *Pre-paid Works Application Form*, prior to issuing an occupation certificate, together with payment of the relevant fees.
- c) If it is proposed to use non-Council contractors to carry out the civil works on Council land, the work must not commence until the written approval has been obtained from Council and the work must be carried out in accordance with the conditions of consent, Council's design details and payment of a Council design and supervision fee.
- d) The civil works must be completed in accordance with Council's conditions of consent and approved design and construction documentation, prior to occupation of the development, or as otherwise approved by Council in writing.

OPERATIONAL CONDITIONS

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

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

External Lighting

39. External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.

Plant & Equipment

40. Noise from the operation of all plant and equipment upon the premises shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997 and Regulations*.

In this regard, the operation of the plant and equipment shall not give rise to an $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $LA_{90, 15}$

min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Office of Environment & Heritage (EPA) Noise Control Guidelines.

Tree Protection Certification

41. Prior to the PCA issuing any Occupation Certificate, written certification must firstly be obtained from Council's Landscape Development Officer (9093-6613) confirming that the Tree Protection Measures relating to joint site inspections, as well as root and canopy pruning, and any other instructions issued on-site were complied with during the course of construction.

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 can issue your *Construction Certificate* and be your *Principal Certifying Authority* for the development, to undertake inspections and ensure compliance with the development consent and relevant building regulations. For further details contact Council on 9093 6944.

- 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 9093 6971.

- 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 Underground assets (eg pipes, cables etc) may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.
- 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).