



**MINUTES OF RANDWICK DEVELOPMENT ASSESSMENT PANEL  
MEETING OF THE COUNCIL OF THE CITY OF RANDWICK HELD ON  
THURSDAY, 22 MARCH 2018 AT 1:00PM**

**Present:**

**Chairperson:** Annelise Tuor

**Expert Members:** Sandra Robinson; Heather Warton

**Community Representatives:** Brenton Thomas (East Ward)

**Council Officers present:**

Acting Director City Planning	Mr K Kyriacou
Acting Manager Development Assessment	Mr F Ko
Executive Planner	Ms E Fitzroy
Senior Environmental Planning Officer	Mr L Coorey
Development Engineer	Mr J Ryder
Manager Administrative Services	Mr D Kelly
Senior Administrative Coordinator	Ms J Hartshorn

**Declarations of Pecuniary and Non-Pecuniary Interests**

Nil.

**Address of RDAP by Councillors and members of the public**

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

D1/18 149-155 MALABAR ROAD, SOUTH COOGEE (DA/502/2017)

**Objector** Ms Barbara Levi

**Objector** Mr Richard Horniblow

**Applicant** Mr Mark Swain (representing the applicant) and Mr Michael Grimshaw (Architect)

D2/18 170 CLOVELLY ROAD, RANDWICK (DA/336/2017)

**Applicant** Mr Patrick Nicholas (representing the applicant)

D4/18 299 STOREY STREET, MAROUBRA (DA/493/2017)

**Applicant** Mr Anthony Betros (representing the applicant)

D5/18 16 ASHER STREET, COOGEE (DA/380/2017)

**Applicant** Mr Anthony Betros (representing the applicant) and Mr Alex Phegan (Architect)

The meeting was adjourned at 1.55pm and was resumed at 4.35pm.

### **Development Application Reports**

#### **D1/18 Development Application Report - 149-155 Malabar Road, South Coogee (DA/502/2017)**

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##### **REASONS:**

The Panel has visited the site, considered the submissions and the assessment report by Council officers of this application under Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.

The Panel determined that part of the breezeway should be included in the gross floor area and, therefore, included in the FSR calculation. On this basis the proposal does not comply with the FSR standard in Clause 4.4 of RLEP 2012 and a request to vary standard under Clause 4.6 has not been submitted. The Panel, therefore, is unable to determine the application.

Determination of the application is, therefore, deferred for the applicant to provide further information on how the application can be amended to reduce the FSR to comply with the standard or submit a Clause 4.6 exception to development standards request.

##### **RESOLUTION:**

That the application be deferred to enable the applicant to either:

- a) Amend the development to reduce the FSR to comply with the standard; or
- b) Submit a request to vary the FSR development standard under Clause 4.6 of RLEP 2012.

**CARRIED UNANIMOUSLY.**

#### **D2/18 Development Application Report - 170 Clovelly Road, Randwick (DA/336/2017)**

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##### **REASONS:**

The Panel has visited the site, considered the submissions and the assessment report by Council officers of this application under Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.

The panel was provided with a memorandum dated 20 March 2018 which proposed amendments to the conditions contained in the assessment report, specifically the deletion of conditions 2(b) and 2(c). The Panel was satisfied that these conditions were not necessary given that 2(b) has been incorporated in the approved plans. Condition 2(c) was not considered necessary as the visual bulk of the bedroom and its relationship to the adjoining property was considered acceptable.

For the reasons outlined in the assessment report the Panel was satisfied that the requirements of Clause 4.6 have been met and that the height standard in Clause 4.3 and the FSR in Clause 4.4 of RLEP 2012 can be varied.

The Panel adopts the recommendation in the report, subject to the conditions in the resolution.

**RESOLUTION:**

- A. That the RDAP supports the exceptions to development standards under Clause 4.6 of Randwick Local Environmental Plan 2012 in respect to non-compliance with Clauses 4.3 and 4.4 of Randwick Local Environmental Plan 2012, relating to height of buildings and floor space ratio, on the grounds that the proposed development complies with the objectives of the above clauses, and will not adversely affect the amenity of the locality, and that the Department of Planning and Environment be advised accordingly.
- B. That the RDAP, as the consent authority, grants development consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/336/2017 for alterations and additions for shop top housing development comprising a new rear two storey building with ground level garage (associated with commercial use), 1<sup>st</sup> floor one bedroom dwelling and alterations and additions to existing commercial premises fronting Clovelly Road, 2 bedroom dwelling above, at No. 170 Clovelly Road, Randwick, subject to the following conditions:

**Development Consent Conditions****GENERAL CONDITIONS**

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

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

**Approved Plans & Supporting Documentation**

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

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>
DA000 Issue H	AN+A	01.03.18
DA020 Issue G		01.03.18
DA021 Issue I		01.03.18
DA022 Issue H		01.03.18
DA023 Issue H		01.03.18
DA024 Issue H		01.03.18
DA150 Issue H		01.03.18
DA151 Issue H		01.03.18
DA160 Issue I		01.03.18
DA161 Issue H		01.03.18

<b>BASIX Certificate No.</b>	<b>Dated</b>
803697s_02	2 March 2018
A2474723_02	2 March 2018

**Amendment of Plans & Documentation**

2. The approved plans and documents must be amended in accordance with the following requirements:
- a. All privacy screens must be constructed with either:
- Fixed lattice/slats with individual openings not more than 30mm wide;

- Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.
- b. Existing parapet detailing including string courses, pilasters and inset panels, are to be retained in conjunction with the widening of the original upper level balcony. Amended drawings are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.
  - c. The existing original shopfront with tiled surround is to be retained in conjunction with the proposed development. Amended drawings are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.

#### **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 adjacent development to maintain the integrity and amenity of the building and the streetscape.

Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Manager Development Assessments prior to issuing a construction certificate for the development.

#### **Section 7.12 Development Contributions**

5. The applicant shall submit a report that reflects the approved development, prepared by a suitably qualified person. The report shall detail all works associated with the development including architect's fees, excavation and development works. The report shall be submitted to Council's Manager of Development Assessment for approval, prior to the issue of any construction certificate for the development.

In accordance with Council's Development Contributions Plan effective from 21 April 2015, if the approved development cost is between \$100,000 and \$200,000 then 0.5% of the approved development cost must be paid to Council, and if the approved development cost of works is \$200,000 and above then 1% of the approved development cost must be paid to Council.

The levy must be paid in **cash, bank cheque** or by **credit card** prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the

Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9399 0999 or 1300 722 542 for the indexed contribution amount prior to payment.

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

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

Where:

**IDC** = the indexed development cost

**ODC** = the original development cost determined by the Council

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

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

Council's Development Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au).

### **Compliance Fee**

6. A development compliance and enforcement fee at a rate of 0.1% of the costing in the quantity surveyor report required as part of S94A condition above 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**

7. 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 6.8 of the *Environmental Planning & Assessment Act 1979*.

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

### **Security Deposit**

8. The following damage / civil works security deposit requirement must be complied with as security for making good any damage caused to the roadway, footway, verge or any public place; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the *Environmental Planning and Assessment Act 1979*:

- \$1000.00 - Damage / Civil Works Security Deposit

The damage/civil works security deposit may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.

The owner/builder is also requested to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.

To obtain a refund of relevant deposits, a *Security Deposit Refund Form* is to be forwarded to Council's Director of City Services upon issuing of an occupation certificate or completion of the civil works.

### **Driveway Design**

9. The gradient of the internal access driveway must be designed and constructed in accordance with AS 2890.1 (2004) – Off Street Car Parking and the levels of the driveway must match the level of the existing Right of Way at the rear property boundary. Details of compliance are to be included in the construction certificate documentation.

**Stormwater Drainage**

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

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

11. Stormwater runoff from the (redeveloped portion) site shall be discharged either:
- a. To the kerb and gutter on Clovelly Road along the site frontage by gravity; OR
  - b. Through a private drainage easement(s) to Council's kerb and gutter i(or underground drainage system); OR
  - c. To a suitably sized infiltration area. As a guide the infiltration area shall be sized based on a minimum requirement of 1 m<sup>2</sup> of infiltration area (together with 1 m<sup>3</sup> of storage volume) for every 20 m<sup>2</sup> of roof/impervious area on the site.

Infiltration areas must be located a minimum of 3.0 metres from any structure (note: this set back requirement may not be necessary if a structural engineer or other suitably qualified person certifies that the infiltration area will not adversely affect the structure), 2.1 metres from the side boundaries and 0.5m from the rear Right of Way.

Prior to the use of infiltration in rear draining lots, a geotechnical investigation will be required to determine whether the ground is suitable for infiltration. Should rock and/or a water table be encountered within two metres of the proposed base of the infiltration pit, or the ground conditions comprise low permeability soils such as clay, infiltration will not be appropriate.

NOTE: Should the applicant be unable to obtain a private drainage easement over properties to the rear of the development site (to facilitate stormwater discharge in accordance with option b)); and ground conditions preclude the use of infiltration (Option c), consideration may be given to the use of a charged system or a pump out system to drain that portion of the site that cannot be drained by gravity to the kerb and gutter at the front of the property.

12. Should a charged system be required to drain any portion of the site, the charged system must be designed such that;
- i. There are suitable clear-outs/inspection points at pipe bends and junctions.
  - ii. The maximum depth of the charged line does not exceed 1m below the gutter outlet.

13. Should a pump system be required to drain any portion of the site the system must be designed with a minimum of two pumps being installed, connected in parallel (with each pump capable of discharging at the required discharge rate) and connected to a control board so that each pump will operate alternatively. The pump wet well shall be sized for the 1 in 100 year, 2 hour storm assuming both pumps are not working.

The pump system must also be designed and installed strictly in accordance with Randwick City Council's Stormwater Code.

14. All pump out water must pass through a stilling pit, located within the site, prior to being discharged by gravity to the kerb and gutter.

### **Sydney Water**

15. 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 **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/tapin>

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

### **Waste Management**

16. A Waste Management Plan detailing the waste and recycling storage and removal strategy for all of the development, is required to be submitted to and approved by Council's Director of City Planning.

The Waste Management plan is required to be prepared in accordance with Council's Waste Management Guidelines for Proposed Development and must include the following details (as applicable):

- The use of the premises and the number and size of occupancies.
- The type and quantity of waste to be generated by the development.
- Demolition and construction waste, including materials to be re-used or recycled.
- Details of the proposed recycling and waste disposal contractors.
- Waste storage facilities and equipment.
- Access and traffic arrangements.
- The procedures and arrangements for on-going waste management including collection, storage and removal of waste and recycling of materials.

*Further details of Council's requirements and guidelines, including pro-forma Waste Management plan forms can be obtained from Council's Customer Service Centre.*

17. The commercial garbage area must be physically separated from the residential bin storage areas.
18. The waste storage areas are to be provided with a tap and hose and the floor is to be graded and drained to the sewer to the requirements of Sydney Water.

#### **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 & Relevant Standards**

19. In accordance with section 4.17 (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).
20. Access and facilities for people with disabilities must be provided in accordance with the relevant requirements of the Building Code of Australia, Disability (Access to Premises – Buildings) Standards 2010, relevant Australian Standards and conditions of consent, to the satisfaction of the Certifying Authority.

#### **BASIX Requirements**

21. In accordance with section 4.17(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.

#### **Site stability, Excavation and Construction work**

22. A report must be obtained from a suitably qualified and experienced *professional engineer*, which includes the following details, to the satisfaction of the Certifying Authority for the development:-
  - a) Geotechnical details which confirm the suitability and stability of the site for the development and relevant design and construction requirements to be implemented to ensure the stability and adequacy of the development and adjacent land.
  - b) Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings.
  - c) Details to demonstrate that the proposed methods of excavation, support and construction are suitable for the site and should not result in any



damage to the adjoining premises, buildings or any public place, as a result of the works and any associated vibration.

- d) The adjoining land and buildings located upon the adjoining land must be adequately supported at all times throughout demolition, excavation and building work, to the satisfaction of the *Principal Certifying Authority*.
- e) Written approval must be obtained from the owners of the adjoining land to install any ground or rock anchors underneath the adjoining premises (including any public roadway or public place) and details must be provided to the *Certifying Authority*.

#### **REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS**

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

#### **Construction Traffic Management**

23. An application for a 'Works Zone' must be submitted to Councils Integrated Transport Department, and approved by the Randwick Traffic Committee, for a 'Works Zone' to be provided in Clovelly Road for the duration of the demolition & construction works.

The 'Works Zone' must have a minimum length of 12m and extend for a minimum duration of three months. The suitability of the proposed length and duration is to be demonstrated in the application for the Works Zone. The application for the Works Zone must be submitted to Council at least six (6) weeks prior to the commencement of work on the site to allow for assessment and tabling of agenda for the Randwick Traffic Committee.

The requirement for a Works Zone may be varied or waived only if it can be demonstrated to the satisfaction of Council's Traffic Engineers) that all construction related activities (including all loading and unloading operations) can and will be undertaken wholly within the site. The written approval of Council must be obtained to provide a Works Zone or to waive the requirement to provide a Works Zone prior to the commencement of any site work.

#### **Public Utilities**

24. 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.
25. 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.

#### **Certification and Building Inspection Requirements**

26. 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 and the requirements of the *Home Building Act 1989* must be satisfied 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**

27. In accordance with Section 4.17(11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, the relevant 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**

28. A dilapidation report (incorporating photographs of relevant buildings) must be obtained from a *Professional Engineer*, detailing the current condition and status of all of the buildings and structures located upon all of the properties adjoining the subject site and any other property or public land which may be affected by the works, 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 Site Management Plan**

29. 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 site fencing / hoardings;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;
- provisions for public safety;
- dust control measures;
- details of proposed sediment and erosion control measures;
- site access location and construction
- details of methods of disposal of demolition materials;

- protective measures for tree preservation;
- location and size of waste containers/bulk bins;
- provisions for temporary stormwater drainage;
- construction noise and vibration management;
- construction traffic management details;
- provisions for temporary sanitary facilities.

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

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

#### **Demolition Work Plan**

30. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures and relevant environmental/work health and safety requirements.

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

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

#### **Construction Noise & Vibration Management Plan**

31. A *Construction Noise & Vibration Management Plan*, prepared in accordance with the Environment Protection Authority (EPA) Guidelines for Construction Noise and Assessing Vibration, by a suitably qualified person, is to be developed and implemented prior to commencing site work and throughout the course of construction, in accordance with the following requirements:

- a) 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.

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.

- b) The *Construction Noise & Vibration Management Plan* must include details of measurements, analysis and relevant criteria and demonstrate that the noise and vibration emissions from the work satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997*, current EPA Guidelines for Construction Noise and Assessing Vibration and Councils conditions of consent.

- c) A further report/correspondence must be obtained from the consultant as soon as practicable upon the commencement of works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the *Construction Noise & Vibration Management Plan* and which demonstrates compliance with relevant criteria.

- d) Any recommendations and requirements contained in the *Construction Noise & Vibration Management Plan* and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to Council and the PCA.

A copy of the *Construction Noise & Vibration Management Plan* and associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to Council and the Principal Certifying Authority accordingly.

#### **Public Liability**

32. The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$10 million and a copy of the Insurance cover is to be provided to the Principal Certifying Authority and Council.

### **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**

33. Building works are required to be inspected by the *Principal Certifying Authority*, in accordance with Section 6.5 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.

#### **Building & Demolition Work Requirements**

34. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Randwick City Council's Asbestos Policy and the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2011;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;
- Randwick City Council Asbestos Policy (adopted 13 September 2005).

*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.*

#### **Removal of Asbestos Materials**

35. Any work involving the demolition, storage or disposal of asbestos products and materials must be carried out in accordance with the following requirements:

- Occupational Health & Safety legislation and WorkCover NSW requirements
- Randwick City Council's Asbestos Policy

- A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10m<sup>2</sup> of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifying Authority.
- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2005*. Details of the landfill site (which must be lawfully able to receive asbestos materials) must be provided to the Principal Certifying Authority.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos 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 at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au) in the Building & Development Section or a copy can be obtained from Council's Customer Service Centre.*

### **Excavations, Back-filling & Retaining Walls**

36. 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.

### **Support of Adjoining Land**

37. In accordance with Section 4.17(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.

### **Sediment & Erosion Control**

38. 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.

Details must be included in the Construction Site Management Plan and a copy must be provided to the Principal Certifying Authority and Council. A copy must also be maintained on site and be made available to Council officers upon request.

**Dust Control**

39. During demolition excavation and construction works, dust emissions must be minimised, so as not to result in a nuisance to nearby residents or result in a potential pollution incident.

Adequate dust control measures must be provided to the site prior to the works commencing and the measures and practices must be maintained throughout the demolition, excavation and construction process, to the satisfaction of Council.

*Dust control measures and practices may include:-*

- *Provision of geotextile fabric to all perimeter site fencing (attached on the prevailing wind side of the site fencing).*
- *Covering of stockpiles of sand, soil and excavated material with adequately secured tarpaulins or plastic sheeting.*
- *Installation of a water sprinkling system or provision hoses or the like.*
- *Regular watering-down of all loose materials and stockpiles of sand, soil and excavated material.*
- *Minimisation/relocation of stockpiles of materials, to minimise potential for disturbance by prevailing winds.*
- *Landscaping and revegetation of disturbed areas.*

**Temporary Site Fencing**

40. Temporary site safety fencing or site hoarding must be provided to the perimeter of the site throughout demolition, excavation and construction works, to the satisfaction of Council, in accordance with the following requirements:

- a) Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), or heavy-duty plywood sheeting (painted white), or other material approved by Council.
- b) Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.
- c) All site fencing and hoardings must be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.
- d) An overhead ('B' Class) type hoarding is required to be provided to protect the public (unless otherwise approved by Council) if:
  - materials are to be hoisted (i.e. via a crane or hoist) over a public footway;
  - building or demolition works are to be carried out on buildings which are over 7.5m in height and located within 3.6m of the street alignment;
  - it is necessary to prevent articles or materials from falling and causing a potential danger or hazard to the public or occupants upon adjoining land;
  - as may otherwise be required by WorkCover, Council or the PCA.

**Notes:**

- *Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.*

- *If it is proposed to locate any site fencing, hoardings, amenities or articles upon any part of the footpath, nature strip or public place at any time, a separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.*

### **Public Safety & Site Management**

41. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with to the satisfaction of Council:

- a) 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.
- b) 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.
- c) 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.*

- d) Access gates and doorways within site fencing, hoardings and temporary site buildings or amenities must not open outwards into the road or footway.
- e) Bulk bins/waste containers 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.
- f) 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.

### **Site Signage**

42. 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**

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

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> <li>Monday to Friday - 7.00am to 5.00pm</li> <li>Saturday - 8.00am to 5.00pm</li> <li>Sunday &amp; public holidays - No work permitted</li> </ul>
Excavating or sawing of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> <li>Monday to Friday - 8.00am to 1.00pm only</li> <li>Saturday - No work permitted</li> <li>Sunday &amp; public holidays - No work permitted</li> </ul>
Additional requirements for all development	<ul style="list-style-type: none"> <li>Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted</li> </ul>

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

#### **Survey Requirements**

44. A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building to the satisfaction of the Principal Certifying Authority (PCA):
- prior to construction (pouring of concrete) of footings and boundary retaining structures,
  - prior to construction (pouring of concrete) of each floor slab,
  - upon completion of the building, prior to issuing an *Occupation Certificate*,
  - as otherwise may be required by the PCA.

The survey documentation must be forwarded to the Principal Certifying Authority and a copy is to be forwarded to the Council, if the Council is not the Principal Certifying Authority for the development.

#### **Building Encroachments**

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

#### **Road / Asset Opening Permit**

46. 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.

47. Adequate provisions must be made to collect and discharge stormwater drainage during construction of the building to the satisfaction of the principal certifying authority.

The prior written approval of Council must be obtained to connect or discharge site stormwater to Council's stormwater drainage system or street gutter.

#### **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**

48. 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*.

#### **Fire Safety Certificates**

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

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

#### **Structural Certification**

50. A Certificate must be obtained from a *professional engineer*, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the *Principal Certifying Authority*. A copy of which is to be provided to Council with the Occupation Certificate.

#### **Sydney Water Certification**

51. A *section 73 Compliance Certificate*, under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation. An Application for a Section 73 Certificate must be made through an authorised Water Servicing Coordinator. For details, please refer to the Sydney Water web site [www.sydneywater.com.au](http://www.sydneywater.com.au)

> *Building and developing* > *Developing your Land* > *Water Servicing Coordinator* or telephone 13 20 92.

Please make early contact with the Water Servicing Co-ordinator, as building of water/sewer extensions may take some time and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority and the Council prior to issuing an *Occupation Certificate* or *Subdivision Certificate*, whichever the sooner.

#### **BASIX Requirements & Certification**

52. 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 any relevant BASIX commitments and requirements have been satisfied.

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

#### **Noise Control Requirements & Certification**

53. The operation of plant and equipment shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997 and Regulations*.

In this regard, the operation of the plant and equipment shall not give rise to an  $L_{Aeq, 15 \text{ min}}$  sound pressure level at any affected premises that exceeds the background  $L_{A90, 15 \text{ min}}$  noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Environment Protection Authority (EPA) Noise Control Guidelines.

54. A report must be obtained from a suitably qualified and experienced consultant in acoustics, which demonstrates and certifies that noise and vibration from any plant and equipment (e.g. mechanical ventilation systems and air-conditioners) satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority (EPA) Noise Control Manual, Industrial Noise Policy and Council's development consent.

A copy of the report must be provided to the *Principal Certifying Authority* and Council prior to an occupation certificate being issued.

#### **Council's Infrastructure, Vehicular Crossings, street verge**

55. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
56. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
- a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship

bonds. Council will also provide details of the approved works including specifications and construction details.

- b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
- c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

### **Stormwater Drainage**

57. The applicant shall submit to the Principal Certifying Authority (PCA) and Council, certification from a suitably qualified and experienced Hydraulic Engineer confirming that the design and construction of the stormwater drainage system complies with Australian Standard 3500.3:2003 (Plumbing & Drainage-Stormwater Drainage) and the conditions of this development approval. The certification must be provided following inspection/s of the site stormwater drainage system by the certifying engineers and shall be provided to the satisfaction of the PCA.
58. Should an infiltration area or pump-out system be provided, a works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced hydraulic consultant/engineer must be forwarded to the Principal Certifying Authority and the Council. The works-as-executed plan must include the following details (as applicable):
- The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes;
  - Details of infiltration/absorption systems; and
  - Details of pumping systems installed (including wet well volumes).
59. Should a infiltration area or pump-out system be provided, a "restriction on the use of land" and "positive covenant" (under section 88E of the Conveyancing Act 1919) shall be placed on the title of the subject property to ensure that the onsite infiltration/pump-out system is maintained and that no works which could affect the design function of the infiltration/pump-out system are undertaken without the prior consent (in writing) from Council. Such restriction and positive covenant shall not be released, varied or modified without the consent of the Council.

#### **Notes:**

- a. The "restriction on the use of land" and "positive covenant" are to be to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's Development Engineer.
- b. The works as executed drainage plan and hydraulic certification must be submitted to Council prior to the "restriction on the use of land" and "positive covenant" being executed by Council.

### **Waste Management**

60. Prior to the occupation of the development, the owner or applicant is required to contact Council's City Services department, to make the necessary arrangements for the provision of any additional waste services for the premises.

61. The waste storage areas shall be clearly signposted.

**Bicycle Parking**

62. Bicycle storage facilities sufficient to accommodate a minimum of 2 bicycle spaces shall be provided on the site in accordance with AS 2890.3.
63. Any gate openings shall be constructed so that the gates, when hung, will be fitted in such a manner that they will not open over the footway or public place.

**Street and/or Sub-Address Numbering**

64. Street numbering must be provided to the front of the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council.

If this application results in an additional lot, dwelling or unit, an application must be submitted to and approved by Council's Director of City Planning, together with the required fee, for the allocation of appropriate street and/or unit numbers for the development. The street and/or unit numbers must be allocated prior to the issue of an occupation certificate.

*Please note: any Street or Sub-Address Numbering provided by an applicant on plans, which have been stamped as approved by Council are not to be interpreted as endorsed, approved by, or to the satisfaction of Council.*

**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.

**Residential Parking Permits**

65. All prospective owners and tenants of the building must be notified that Council will not issue any residential parking permits to occupants/tenants of this development.
66. A notice shall be placed in the foyer/common areas of the building advising tenants/occupiers that they are in a building which does not qualify for on-street resident parking permits.

**Use of parking spaces**

67. The car spaces within the development are for the exclusive use of the commercial premises of the building. The car spaces must not be leased to any person/company that is not an occupant of the commercial premises.

**Fire Safety Statements**

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

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

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

**Environmental Amenity**

69. 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.

**Pump-out/Infiltration System**

70. Any pump-out/infiltration system must be regularly cleaned and maintained to ensure it functions as required by the design.

**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 4.17 of the Act.

- A1 Underground assets (eg pipes, cables etc) may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

- A2 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.

- A3 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 \$6,000) 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.

- A4 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.

- A5 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.
- A6 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA), Disability (Access to Premises – Buildings) Standards 2010 and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards. You are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.
- A7 Any proposed amendments to the design and construction of the building may require a new development application or a section 4.55 amendment to the existing consent to be obtained from Council, before carrying out such works
- A8 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.
- A9 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.
- A10 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:
- the consent of the owners of such adjoining or supported land to trespass or encroach, or
  - an access order under the *Access to Neighbouring Land Act 2000*, or
  - an easement under section 88K of the *Conveyancing Act 1919*, or
  - an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.
- Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).
- A11 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 any adjoining land.
- Finished ground levels external to the building are to be consistent with the development consent and are not to be raised, other than for the provision of approved paving or the like on the ground.

A12 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au) and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.

**CARRIED UNANIMOUSLY.**

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**D3/18 Development Application Report - 4B Neptune Street, Coogee  
(DA/640/2017)**

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**REASONS:**

The Panel has visited the site and considered the assessment report by Council officers of this application under Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.

For the reasons outlined in the assessment report the Panel adopts the recommendation in the report.

The Panel notes that the minor upgrade works would facilitate the continued public use of Wylie's Baths, which is a Heritage Item, and conserve its significance including social. The work will also maintain and protect the environmental and aesthetic values of the site consistent with the Coogee Beach Foreshore Plan of Management. It will not result in any adverse ecological, stormwater, water quality, or coastal hazard impacts.

**RESOLUTION:**

That the RDAP, as the consent authority, grants development consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 640/2017 for upgrade to Wylie's Baths including repairs to pool walls, installation of pre-cast wall panels to the upper portion of the northern and southern pool walls, new steps into the pool and a new pool valve in the eastern wall of the pool, at No. 4B Neptune Street, South Coogee, subject to the development consent conditions attached to the assessment report.

**CARRIED UNANIMOUSLY.**

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**D4/18 Development Application Report - 299 Storey Street, Maroubra  
(DA/493/2017)**

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The Panel has visited the site, considered the submissions and the assessment report by Council officers of this application under Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.

**RESOLUTION:** That the RDAP, as the consent authority, refuse development consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/493/2017 for alterations and additions to the existing dwelling and conversion to a dual occupancy with associated works including infill of swimming and spa pools at No. 299 Storey Street, Maroubra for the following reasons:

1. The proposal exceeds the maximum floor space ratio of 0.5:1 specified in Clause 4.4 of Randwick Local Environmental Plan 2012 and the Clause 4.6 variation has failed to demonstrate that strict application of the control is either unreasonable or unnecessary or that there are sufficient environmental planning reasons to justify contravening the development standard.
2. Approval of such a significant variation to the floor space ratio development standard without satisfactory justification as required by Clause 4.6(3) of the of

- Randwick Local Environmental Plan 2012 would not be in the public interest as it is inconsistent with the objectives of the floor space ratio development standard and the objectives for development within the R2 – Low Density zone in which the development is proposed to be carried out.
3. The proposal fails to satisfy the relevant objectives of R2 – Low Density zone under Randwick Local Environmental Plan 2012 in relation to the desired future character of the locality and the protection of residential amenity.
  4. The proposal fails to satisfy the relevant objectives of Building Design under Part C1 of the Randwick Comprehensive Development Control Plan 2013 in that the excessive height and density, lack of adequate solar access and privacy, excessive site coverage, lack of adequate private open space, lack of adequate deep soil zones, poor internal layout, poor pedestrian access and lack of adequate natural ventilation would result in unreasonable impacts for the future residents of the development in terms of overall residential amenity, privacy and solar access.
  5. The proposal does not comply with the landscape and permeable surface requirements under Part C1 of the Randwick Comprehensive Development Control Plan 2013.
  6. The proposal does not achieve adequate side and rear setbacks for dual occupancy development under Part C1 of the Randwick Comprehensive Development Control Plan 2013, resulting in to inadequate solar access, private open space, privacy and residential amenity.
  7. The proposal does not satisfy the visual privacy requirements under Part C1 of the Randwick Comprehensive Development Control Plan 2013 because it would result in unreasonable internal privacy impacts as a consequence of overlooking from the kitchen and rear balcony of Unit 1 directly over the private open space area for Unit 2.
  8. Private open space which achieves suitable dimensions for Unit 1 is not directly accessible from living rooms within the dwelling, is located only on levels either above or below the habitable rooms and in such a manner that direct overlooking of adjoining dwellings occurs and is not provided with any landscaping to ensure an adequate level of amenity or utility.
  9. The proposal would result in inadequate levels of internal amenity due to a lack of solar access to the living rooms and private open space areas of Unit 2 and poor natural ventilation due to the setbacks, orientation, poor internal floor layout and inadequate window design and placement.
  10. Pedestrian access to Unit 2 is inadequate as it cannot be easily seen from the street, can only be accessed via a stairway above a stormwater drainage easement and indirect path of travel within the lower level of the dwelling and is not provided with an acceptable level of passive surveillance from the public domain.
  11. The approval of a development with poor levels of internal amenity, inadequate facilities and private open space areas, poor natural ventilation and inadequate solar access despite such a significant density which is well above the stipulated floor space ratio is not in the public interest and will set an undesirable precedent for other similarly inadequate proposals, resulting in a significant adverse effect on the wider health and wellbeing of the community.

**CARRIED UNANIMOUSLY.**



## **D5/18 Development Application Report - 16 Asher Street, Coogee (DA/380/2017)**

### **REASONS:**

The Panel has visited the site, considered the submissions and the assessment report by Council officers of this application under Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.

For the reasons outlined in the assessment report the Panel, by majority vote, adopts the recommendation in the report.

The Panel notes that while the proposal does not comply with the numerical setback controls in the RDCP 2013, the height of the building at 7.19m is below the 12m height standard in Clause 4.3 of the RLEP 2012 and, therefore, will achieve the objectives of the setback controls and result in an acceptable development. Further, the development provides a high level of amenity for residents of the subject and adjoining developments as well as from the public domain. These matters are considered fundamental to the determination.

The Panel also notes that the proposal does not comply with the parking controls in RDCP 2013. This is, however, considered acceptable for the reasons outlined in the assessment report and the conditions which preclude residents from participating in the Resident Parking Scheme.

### **RESOLUTION:**

That the RDAP as the consent authority grant development consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/380/2017 for demolition of all structures on site and construction of a 2 storey residential flat building comprising of 6 x studio units, associated site and landscaping works at 16 Asher Street, Coogee, subject to the development consent conditions attached to the assessment report, as amended below:

- Drawing No. A2203 be amended to show Unit 1.02 with an area of 35m<sup>2</sup> and a deck of 10m<sup>2</sup>.

### **CARRIED.**

**A VOTE** was taken and the names of the Panel members voting FOR and AGAINST were as follows:

<b>FOR</b>	<b>AGAINST</b>
Annelise Tuor	Brenton Thomas
Sandra Robinson	
Heather Warton	
<b>Total (3)</b>	<b>Total (1)</b>

## **Miscellaneous Reports**

### **M1/18 Miscellaneous Report - Randwick Development Assessment Panel Guidelines (F2018/00142)**

**RESOLUTION:** That the Randwick Development Assessment Panel Guidelines be adopted.

### **CARRIED UNANIMOUSLY.**

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**M2/18 Miscellaneous Report - Randwick Development Assessment Panel delegations in relation to development appeals. (F2018/00142)**

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**RESOLUTION:** That:

- a) the Randwick Development Assessment Panel delegate its functions of control and direction of development appeals in respect development for which it exercises the functions of the Council as consent authority to the General Manager.
- b) the Panel be updated regularly on any current Land & Environment Court Appeals.

**CARRIED UNANIMOUSLY.**

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**M3/18 Miscellaneous Report - Disclosure of Interest Returns (F2018/00142)**

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**RESOLUTION:** That it be noted that the Register of Disclosure of Interests Returns for all RDAP panel members, has been tabled.

**CARRIED UNANIMOUSLY.**

The meeting closed at 4.50pm.

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**CHAIRPERSON**