



## **MINUTES OF RANDWICK DEVELOPMENT ASSESSMENT PANEL**

### **DETERMINATION OF DEFERRED MATTER ON TUESDAY, 21 AUGUST 2018**

(Pursuant to cl 26 of Schedule 2 of the *Environmental Planning and Assessment Act 1979*)

#### **Panel members:**

**Chairperson:** Annelise Tuor

**Expert Members:** Deborah Laidlaw; Julie Savet Ward

**Community Representatives:** Peter Ryan (South Ward)

#### **Development Application Reports**

##### **D67/18 Development Application Report - 15 Seaside Parade, South Coogee (DA/6/2018) (DEFERRED ITEM)**

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#### **REASONS:**

At its meeting on 14 June 2018, the Randwick Local Planning Panel (Panel) visited the site, considered the submissions and an assessment report (Report) prepared by Council officers. The Panel resolved that the application be deferred to enable the applicant to address the following issues:

- *The store room below pool level has not been included in the Gross Floor Area (GFA) calculation and appears to be above existing ground level and therefore, the development may exceed the floor space ratio standard under Clause 4.4 of the Randwick Local Environmental Plan 2012 (RLEP 2012) and consequently in the absence of a Clause 4.6, the Panel has no power to grant development consent.*
- *A revised survey plan is required to show the existing ground levels beneath the proposed pool and associated built form to confirm whether excavation is proposed and to determine the extent of the GFA (above existing ground level) to be included in the FSR calculation.*
- *The proposed pool and associated built form encroaches into the foreshore building line and from the information available, the proposal would be inconsistent with Clause 14 of the State Environmental Planning Policy (Coastal Management) 2018 (SEPP (Coastal Management) 2018) and clauses 6.6 and 6.7 of the RLEP 2012. The Panel considers the proposed built form should not encroach on the foreshore building line as the site is highly visible from the foreshore area.*
- *The Panel is not satisfied on the information available that sufficient steps have been taken to minimise the impact of the pool and associated built form upon the foreshore area consistent with Clause 14 of the SEPP (Coastal Management) 2018 and clauses 6.6 and 6.7 of the RLEP 2012.*
- *The architectural documentation of the pool and associated structures is incomplete and inconsistent.*

*In addition, the Panel is of the view that the northern edge of the deck at RL18.55 should be setback a minimum of 900mm from the adjacent boundary to improve the amenity of the adjoining neighbour and provide greater separation between built forms.*

*The applicant is to submit amended plans by 6 July 2018 to address the above matters and the Panel will then determine the application. In the event that the applicant does not wish to submit amended plans then the Panel will determine the application in its current form.*

The applicant submitted plans on 6 July 2016, which include the following changes:

- The proposed deck and swimming pool (including the enclosed structure and the storage room below) has been deleted and the existing rear deck structure including the pool below, is to be retained;
- Access to the existing rear deck over the swimming pool (RL19.51) has been provided in the form of steps from the proposed rear deck adjacent to the new rumpus room (RL18.59);
- The proposed rear deck is set back 900mm from the northern boundary and raised by 4mm (RL18.59), and
- Stair access along the southern boundary has been modified to reflect retention of the existing pool structure.

The Panel has considered a supplementary report (Supplementary Report), which recommends approval of the application, as amended, subject to conditions.

The Panel notes that its reason for deferral in relation to setting back the rear deck 900mm from the northern boundary has been adequately addressed and that a survey plan has been provided.

The Panel also notes that with the deletion of the pool structure and storage room as originally proposed, the Floor Space Ratio (FSR) as calculated by the applicant is now 0.599:1 (392sqm), which would comply with the maximum permissible Floor Space Ratio (FSR) for the site of 0.6:1 under cl 4.4 of Randwick Local Environmental Plan 2012 (RLEP 2012). This assessment, however, relies on no gross floor area (GFA) being nominated within the existing pool structure.

As the pool is formed within a room enclosed by walls exceeding 1.4 metres in height and a roof and new stairs are proposed to provide access to the enclosed area then, were it not for the very limited clearance between the pool surround and the ceiling (in part further impacted by the proposed deck access stairs above) the floor area associated with this space would arguably be included as GFA. In any event, as viewed from the coast and foreshore, the Panel notes that this structure presents significant visual bulk in excess of that which the applicant has calculated.

The Panel is not satisfied that the retention of the existing pool structure addresses its concerns that *"the proposal would be inconsistent with Clause 14 of the State Environmental Planning Policy (Coastal Management) 2018 (SEPP (Coastal Management) 2018) and clauses 6.6 and 6.7 of the RLEP 2012. The Panel considers the proposed built form should not encroach on the foreshore building line as the site is highly visible from the foreshore area"* or that *"sufficient steps have been taken to minimise the impact of the pool and associated built form upon the foreshore area consistent with Clause 14 of the SEPP (Coastal Management) 2018 and clauses 6.6 and 6.7 of the RLEP 2012"*.

The amended proposal to retain the existing pool structure would result in a worse environmental outcome than the new pool structure proposed in the application considered by the Panel on 14 June 2018. It does not satisfy the Panel's resolution that required the *"applicant is to submit amended plans by 6 July 2018 to address the*

*above matters and the Panel will then determine the application. In the event that the applicant does not wish to submit amended plans then the Panel will determine the application in its current form”.*

However, as the Council has accepted the amended application and as the proposed changes address some of the Panel’s reasons for refusal, the Panel’s determination is based on the application as amended by the plans submitted on 6 July 2018. However, the Panel does not accept that the Supplementary Report adequately addresses the impacts of the retention of the pool structure as part of a development application for the redevelopment of the site. The development application as a whole must be assessed against the relevant statutory planning controls and the Randwick Development Control Plan.

The proposal involves extensive development on the site, including the demolition of the existing house and its replacement with a new four storey house. The existing pool structure is to be retained, although part of the structure is to be demolished to provide steps to connect the existing deck over the pool (RL19.5) with the proposed new dwelling and its rear deck (RL18.59). No work is proposed to the remainder of the pool structure. The site is in a prominent location and the house and pool are clearly visible from locations in the Ocean and the foreshore.

The existing pool structure was approved under BA/91/1965 and is in a dilapidated condition and has been covered by a deck approved under DA 529/13 at RL19.5. While the pool itself remains in the current application it cannot be used and the deck will be compromised by the addition of steps to link it with the new house. The approved deck above the pool has a varying width of 5.11-6.83m and a depth of 12.13m, which extends a maximum of about 3.8m into the Foreshore Building Line (FSBL). This DA also required the existing swimming pool walls to be clad with timber batten screens, which has, to date, not been done. The survey does not show the level of this part of the deck but shows the pool as constructed with a surround at RL17.53. The bottom of the pool is between RL15.65-16.56. The top of the existing concrete block walls around the pool are shown as RL18.53-18.95. The bottom of the pool is about 4m below the deck level but the walls around the pool are higher as the ground level at the eastern end of the pool drops away to between RL13.3 – RL 14.3.

The existing pool/deck structure is a significant and unsightly element in the foreshore area that encroaches beyond the FSBL into the foreshore area. Its retention does not ‘minimise the impact of the pool and associated built form upon the foreshore area’. Further, the retention of a structure of this extent and height in the amended application is not warranted as the level of the deck above the pool was previously approved to relate to the level of the existing house to provide at-grade access. The existing house is to be demolished and replaced with a new dwelling that adopts different floor levels. That part of the existing deck to be retained would be about one metre above the level of the adjoining deck from the rumpus room of the new dwelling house and would also be up to one metre above the level of the existing concrete walls of the pool structure. The proposal also does not include any works to the exterior concrete walls of the pool structure. The retention of this structure as part of an overall redevelopment of the site is unreasonable when considered against the unacceptable impacts that would relate from such a significant and unsightly structure. The proposal to retain part of the existing structure thus presents a new issue of concern, being the inconsistency of architectural language, materials and treatment between the retained structure and the new structure of the dwelling house.

The impacts of the proposal when assessed against the relevant requirements of SEPP (Coastal Management) 2018 and RLEP 2012 are unacceptable. In particular, the proposed new dwelling with the retention of the existing pool structure is not consistent with the objective of cl 6.6 (Foreshore Building Line) of RLEP 2012 *to ensure that development in the foreshore area will not .... affect the significance and amenity of the area.* The Panel is not satisfied that the appearance of the proposal

*from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and that any ... natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained (cl 6.6(3)(b) and (f)).*

The proposal is also not consistent with the objectives of cl.6.7(1) (Foreshore Scenic Protection Area) of RLEP 2012 *(a) to recognise, protect and enhance the natural, visual and environmental qualities of the scenic areas of the coastline, (b) to protect and improve visually prominent areas adjoining the coastal foreshore, (c) to protect significant public views to and from the coast, and (d) to ensure development in these areas is appropriate for the location and does not detract from the scenic qualities of the coast.* The Panel is not satisfied that the proposed new dwelling with the retention of the existing pool structure *is located and designed to minimise its visual impact on public areas of the coastline, including views to and from the coast, foreshore reserves, open space and public areas, and contributes to the scenic quality of the coastal foreshore (cl 6.7(3)(a) and (b)).*

Furthermore, the Panel considers that the proposed new house with the retained pool structure is likely to cause an adverse impact on the *visual amenity and scenic qualities of the coast, including coastal headlands cl 14(1)(a)(iii)*, and the Panel is not satisfied that the development is designed or sited to avoid, minimise or mitigate this impact (cl 14(1)(b)) nor has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development (Clause 14 (1)(c)).

Consequently, the Panel finds that the application in its current form is of a bulk and scale that has an unacceptable visual impact on the foreshore. The Panel considers, however, that this can be ameliorated to an acceptable level through the imposition of a deferred commencement condition that requires amended plans to be submitted for the approval of Council's Manager Development Assessment that:

- i. demolish or substantially demolish the existing pool structure including the deck above and as far as practicable reinstate a natural profile to the rock surface below;
- ii. provide a deck (and pool as required) and supporting structure at the 'Pool Level' Floor Plan with:
  - (a) a height so that it does not exceed RL 18.59 at any point (other than for BCA compliant balustrading).
  - (b) a length so that it does not encroach beyond (i.e. eastwards of) the Foreshore Building Line in RLEP 2012.
  - (c) a width (i.e. in a north-south dimension) so that it does not exceed the width of the existing deck over the pool.
- iii. any new pool is to be fully contained within the outer boundaries of the deck and supporting structure in ii above.
- iv. No 'gross floor area' as defined under RLEP 2012 is to be included in the deck and supporting structure in ii above.
- v. the deck (and pool) and the underside structure are all to be designed to a high standard as architectural/decorative elements, integrated with the design of the remainder of the dwelling house and finished in a low maintenance finish of dark/visually recessive tones. All plant and equipment are to be fully screened from view from any public space.

In addition, a deferred commencement condition is also to be imposed which requires

that the development consent for DA/529/2013 and BA/91/1965 must be surrendered or amended to be consistent with the requirements of this consent. This is to prevent more than one consent applying to the land, which have inconsistent requirements.

The Panel considers that the requirements of the deferred commencement conditions are fundamental to its approval of the application.

The Panel, subject to the deferred commencement and standard conditions attached to this resolution, supports the exceptions to the height development standard under Clause 4.6 of RLEP 2012 and approves the application by adopting the resolution detailed below.

**RESOLUTION:**

- A. That the RLPP is satisfied that the matters required to be addressed under clause 4.6(4) of Randwick Local Environmental Plan 2012 have been demonstrated and that consent may be granted to the development application, which contravenes the height of buildings development standard in Clause 4.3 of Randwick Local Environmental Plan 2012. The concurrence of the Director of the Department of Planning & Environment may be assumed.
- B. That the RLPP grants "Deferred Commencement" consent under Section 4.16(3) of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No. 6/2018 for the demolition of the existing dwelling house and garage, part retention of an existing deck above a swimming pool and associated structure, construction of a new part one to part four storey dwelling house with double garage, associated site and landscaping works, at 15 Seaside Parade, South Coogee, subject to the following deferred commencement and standard conditions:

**DEFERRED COMMENCEMENT CONDITIONS**

The consent is not to operate until the following material has been submitted to and approved by the Council's Manager of Development Assessment.

**Deferred Commencement**

1. The consent is not to operate until the following documentation has been provided to the satisfaction of Council's Manager Development Assessment:

**Design Changes**

- a) Amended plans are to be submitted for the southern part of the 'Pool Level' Floor Plan (i.e. that part adjoining the rumpus room at that level) which:
- i. demolish or substantially demolish the existing pool structure including the deck above and as far as practicable reinstate a natural profile to the rock surface below;
  - ii. provide a deck (and pool as required) and supporting structure at the 'Pool Level' Floor Plan with:
    - (a) a height so that it does not exceed RL 18.59 at any point (other than for BCA compliant balustrading),
    - (b) a length so that it does not encroach beyond (i.e. eastwards of) the Foreshore Building Line in RLEP 2012,
    - (c) a width (i.e. in a north-south dimension) so that it does not exceed the width of the existing deck over the pool.
  - iii. any new pool is to be fully contained within the outer boundaries of

the deck and supporting structure in ii above.

- iv. No 'gross floor area' as defined under RLEP 2012 is to be included in the deck and supporting structure in ii above.
- v. the deck (and pool) and the underside structure are all to be designed to a high standard as architectural/decorative elements, integrated with the design of the remainder of the dwelling house and finished in a low maintenance finish of dark/visually recessive tones. All plant and equipment are to be fully screened from view from any public space.

#### **Existing Consents**

- b) The development consents for DA/529/2013 and BA/91/1965 must be surrendered or amended to be consistent with this consent and the requirements of condition 1. a) above.

**Evidence required to satisfy the above condition must be submitted to Council within 12 months of the date of this consent.**

**Subject to compliance with the deferred commencement condition, to the satisfaction of the Manager of Development Assessment, development consent is granted under Section 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, subject to the following 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**

- 2. 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>
1.01 d4 Roof Plan	Rolf Ockert Architect	July 2018
1.02 d4 Upper Level Plan	Rolf Ockert Architect	July 2018
1.03 d4 Entry and Living Level	Rolf Ockert Architect	July 2018
1.04 d4 Pool Level Plan	Rolf Ockert Architect	July 2018
1.05 d4 Below Pool Level	Rolf Ockert Architect	April 2018
2.01 d4 West and North Elevations	Rolf Ockert Architect	July 2018
2.02 d4 South Elevation	Rolf Ockert Architect	July 2018
2.03 d4 East Elevation	Rolf Ockert Architect	July 2018
2.04 d4 Long Section	Rolf Ockert Architect	July 2018
2.05 d4 Long Section 2	Rolf Ockert Architect	April 2018
L.01 d4 Landscape Plan	Rolf Ockert Architect	December 2017

<b>BASIX Certificate No.</b>	<b>Dated</b>
879801S	20/12/17

#### **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 94A Development Contributions

5. In accordance with Council's Section 94A Development Contributions Plan effective from 21 April 2015, based on the development cost of \$2,843,500 the following applicable monetary levy must be paid to Council: \$28,435.

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](http://www.randwick.nsw.gov.au).

### Compliance Fee

6. A development compliance and enforcement fee of \$2,843.50 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 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.*

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

- \$3000 - Damage / Civil Works Security Deposit

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

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

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

### **Design Alignment levels**

9. The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, shall be:

#### **Vehicle Access**

- **Such that the grade of the vehicle crossing does not exceed a maximum of 1 in 20 (5%) across Council's verge.**

#### **Pedestrian Access**

- **RL 23.25 AHD.**

The design alignment levels at the property boundary as issued by Council must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.

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

10. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of \$906 calculated at \$57.00 (inclusive of GST) per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.

### **Driveway Design**

11. The gradient of the internal access driveway must be designed and constructed in accordance with AS 2890.1 (2004) – Off Street Car Parking and the levels of the driveway must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate.

The height of the building must not be increased to satisfy the required

driveway gradients.

### **Sydney Water**

12. 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.

### **Stormwater Drainage**

13. 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.

14. A site stormwater drainage system is to be provided in accordance with the following requirements (as applicable):
- a) The stormwater drainage system must be designed and constructed to satisfy the relevant requirements in the Building Code of Australia,
  - b) Roof stormwater must be directed to a suitably designed and constructed rainwater tank, as required in the relevant BASIX Certificate for the dwelling,
  - c) The overflow from the rainwater tank and other surface stormwater must be directed to a suitably designed sediment/silt arrestor pit which drains to Council's kerb and gutter or underground drainage system in front of the site,;
  - d) Any rainwater tank overflow/stormwater runoff which cannot be directed

to the underground drainage system at the front of the property (due to topographical constraints), shall be discharged to the watercourse located the rear of the property via a sediment silt arrestor pit.

- e) Any Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line and must not encroach across a neighbouring property's frontage unless approved in writing by Council's Development Engineering Coordinator.
- f) Details of the design and construction of the stormwater drainage system, sediment site arrestor pit/s and infiltration areas must be submitted to and approved by the Certifying Authority with the Construction Certificate and all works are to be carried to the satisfaction of the Principal Certifying Authority.

15. Sediment/silt arrestor pit/s are to be provided within the site at or near the street boundary prior to stormwater being discharged from the site or into any infiltration areas. The sediment/silt arrestor pits are to be constructed generally in accordance with the following requirements, to the satisfaction of the principal certifying authority:

- The base of the pit located a minimum 300mm under the invert level of the outlet pipe.
- The grate is to be a galvanised heavy-duty grate that has a provision for a child proof fastening system.
- A minimum of 4 x 90 mm diameter weep holes located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes.
- A galvanised heavy-duty screen located over the outlet pipe (Mascot GMS Multi-purpose filter screen or similar)
- A child proof and corrosion resistant fastening system for the access grate (spring loaded j-bolts or similar).
- The inlet pipeline located on the side of the pit so that the stormwater will discharge across the face of the screen.
- A sign adjacent to this pit stating that:

"This sediment/silt arrestor pit shall be regularly inspected and cleaned."

**Note: Sketch details of a standard sediment/silt arrestor pit can be obtained from Council's Drainage Engineer.**

#### **Street Tree Protection**

16. In order to ensure retention of the stand of three native coastal trees on the public verge, comprising firstly, at the back of the kerb, between the existing vehicle crossing and northern site boundary, being from south to north, a *Banksia integrifolia* (Coastal Banksia), a *Hibiscus tileaceus* (Cottonwood), and then further to their east, hard up against the front property boundary, just south of the existing pedestrian entry, another larger *Banksia integrifolia* (Coastal Banksia) in good health, the following measures are to be undertaken:

- a. All documentation submitted for the Construction Certificate application must show their retention, with the position and diameter of both their trunks and canopies to be clearly and accurately shown on all plans in relation to the proposed works.
- b. Any excavations associated with the installation of new services, pipes,

stormwater systems or similar over public property can only be directed along either of the sites side boundaries; or, hard up against the northern edge of the new vehicle crossing.

- c. All Construction Certificate plans must show that a minimum offset of **1 metre** will be provided between excavations for the northern side of the new vehicle crossing and the trunk of the most southern Coastal Banksia.
- d. **Where any roots with a diameter of 50mm or more are encountered on public property during works associated with either demolition or construction of the existing or new pathway or vehicle crossing, Council's Landscape Development Officer (9093-6613) must then be contacted, prior to proceeding further with any works, to inspect the affected roots, with the applicant to comply with any instructions issued.**
- e. In the case where structural roots are encountered on public property and need to be retained, then the re-grading works on the verge must be adjusted, or similar alternative solutions initiated, to allow their preservation, as instructed by Council's Officer.
- f. Where smaller roots are encountered which are in direct conflict with the approved works, and permission is granted for their pruning, they may then be cut cleanly by hand (using only hand held tools, not machinery), with the affected areas to be backfilled with clean site soil as soon as practically possible, so that cut ends are not left exposed to the atmosphere.
- g. To prevent destabilizing the large Banksia that is located against the front fence, all Construction Certificate plans must include a notation stating that this existing masonry wall on the front property boundary, hard up against the eastern side of its trunk, will be retained in-situ for as long as practically possible.
- h. Any new masonry fencing back on the front boundary cannot be constructed any closer to the tree than the footings of the existing fence, and if any roots with a diameter of 50mm or more are encountered during its demolition/re-construction, then **Council's Landscape Development Officer (9093-6613) must be contacted, prior to proceeding further with any works, to inspect the affected roots, with the applicant to comply with any instructions issued.**
- i. Where Council determines that roots within the private property must be retained as part of the new fence, then a cantilevered, pier and beam style footing must be used to allow their preservation.
- j. The Construction Certificate plans must acknowledge that a site inspection may result in the need to alter the footing design away from a traditional strip footing, with a suitably qualified engineer needing to have the required design approved by the PCA, prior to installing the footings.
- k. Where minor roots are encountered within private property, and permission is given for their pruning, they may be cut cleanly by hand, with the affected area to be backfilled with clean site soil as soon as practically possible.
- l. Prior to the commencement of any site works, each of their trunks (as

well as any affected branches) are to be physically protected by wrapping layers of geo-textile, underfelt or layers of Hessian, from ground level to a height of 2m, to which, 2m lengths of 50mm x 100mm hardwood timbers, spaced at 150mm centres shall be placed around its circumference, and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.

- m. This protection shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION, DO NOT REMOVE".
- n. There is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble around their trunks during the course of works, with all Site Management Plans needing to acknowledge these requirements.
- o. In order to prevent soil/sediment being washed over their root systems, erosion control measures may also be provided at ground level, around the perimeter of the TPZ, if necessary.
- p. **Other than the approved works, the applicant is not authorised to perform any other works to these public trees, and must contact Council's Landscape Development Officer on 9093-6613 should pruning or similar works appear necessary. If approval is given, it can only be performed by Council, wholly at the applicants cost, with payment to be received prior to the issue of an Occupation Certificate. A minimum time frame of 3 weeks is required for pruning works.**
- q. The PCA must ensure compliance with all of these requirements, both on the plans as well as on-site during the course of construction, and prior to issuing any type of Occupation Certificate.
- r. A refundable deposit in the form of cash, credit card or cheque for an amount of **\$2,000.00** must be paid at the Cashier on the Ground Floor of the Administrative Centre, **prior to a Construction Certificate being issued for the development**, in order to ensure compliance with the conditions listed in this consent, and ultimately, preservation of the trees.

The refundable deposit will be eligible for refund following the issue of an Occupation Certificate, subject to completion and submission of Council's 'Security Deposit Refund Application Form', and pending a satisfactory inspection by Council's Landscape Development Officer (9093-6613).

Any contravention of Council's conditions relating to the trees at any time during the course of the works, or prior to the issue of any Occupation Certificate, may result in Council claiming all or part of the lodged security in order to perform any rectification works necessary, as per the requirements of 80A (6) of the Environmental Planning and Assessment Act 1979.

#### **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**

17. 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.

#### **BASIX Requirements**

18. 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**

19. 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 provisions of the Building Code of Australia (Volume 2) and relevant Standards;
  - 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;
  - f) A certificate, from a suitably qualified person must be submitted to the PCA and Council, prior to the issue of an Occupation Certificate, which

confirms that the stormwater drainage system has been provided in accordance with the requirements of this consent, relevant standards and requirements.

#### **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**

20. 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**

21. 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**

22. 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 Plan**

23. 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.

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

### **Construction Site Management Plan**

24. 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, 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**

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

A Demolition Work Plan must be prepared for the demolition works which should 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.

#### **Demolition & Construction Waste**

26. A *Demolition and Construction Waste Management Plan* (WMP) must be developed and implemented for the development, to the satisfaction of Council.

The Waste Management Plan must provide details of the type and quantities of demolition and construction waste materials, proposed re-use and recycling of materials, methods of disposal and details of recycling outlets and land fill sites.

Where practicable waste materials must be re-used or recycled, rather than disposed and further details of Council's requirements including relevant guidelines and pro-forma WMP forms can be obtained from Council's Customer Service Centre or by telephoning Council on 9399 0999.

Details and receipts verifying the recycling and disposal of materials must be kept on site at all times and presented to Council officers upon request.

#### **Public Utilities**

27. A *Public Utility Impact Assessment* must be carried out to identify all public utility services located on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the building works. The assessment should include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of services.

28. The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Ausgrid, Sydney Water and other authorities to adjust, repair or relocate their services as required.

#### **Landscape Plan**

29. A landscape plan prepared by a qualified professional in the Landscape/Horticultural industry (must be eligible for membership with AILD, AILA or equivalent) must be submitted to, and be approved by, the Certifying Authority/PCA, **prior to the commencement of site works**, and must detail

the following:

- a. A Planting Plan & Plant Schedule which includes proposed species, botanic and common names, pot size at the time of planting, quantity, location, dimensions at maturity and any other details required to describe the works;
- b. A predominance of species that can withstand harsh, frontline coastal conditions and salt laden winds, and are not reliant on high quantities of moisture and fertilizer for survival;
- c. A high quality selection and arrangement of decorative species throughout those garden areas shown in both the front and northern setbacks so as to assist with presentation of the development to the streetscape.

#### **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**

30. 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.

#### **Site Signage**

31. 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**

32. 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	<ul style="list-style-type: none"> <li>• Monday to Friday - 8.00am to 5.00pm</li> <li>• Saturday - No work permitted</li> </ul>

rollers/compactors or the like	<ul style="list-style-type: none"> <li>• Sunday &amp; public holidays - No work permitted</li> </ul>
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*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**

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

- Relevant Occupational Health & Safety legislation and WorkCover NSW requirements
- Randwick City Council's Asbestos Policy
- A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 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 or a copy can be obtained from Council's Customer Service Centre.*

### **Sediment & Erosion Control**

34. 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 of the sediment and erosion control measures to be implemented on the site must be included in with the *Construction Management Plan* and 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.

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

35. 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.*

Access gates and doorways within site fencing, hoardings and temporary site buildings or amenities must not open out into the road or footway.

- e) 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.

- 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.

- g) 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. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

- h) Temporary toilet facilities are to be provided, at or in the vicinity of the work site throughout the course of demolition and construction, to the satisfaction of WorkCover NSW and the toilet facilities must be connected to a public sewer or other sewage management facility approved by

Council.

### **Support of Adjoining Land, Excavations & Retaining Walls**

36. 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.
37. 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.

38. 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*.

### **Survey Requirements**

39. 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 the footings or first completed 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**

40. 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**

41. Any openings within or upon the road, footpath, nature strip or in any public place (i.e. for proposed drainage works or installation of services), must be carried out in accordance with the following requirements, to the satisfaction of Council:

- 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.
- Relevant *Road / Asset Opening Permit* fees, repair fees, inspection fees and security deposits, must be paid to Council prior to commencing any works within or upon the road, footpath, nature strip or other public place.

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

#### **Tree Management**

42. Due to their small size and insignificance, approval is granted for the removal of any vegetation within the subject site where necessary to accommodate the approved works, subject to full implementation of the approved landscaping.

#### **Unauthorized Plantings**

43. With the exception of the three mature street trees that are being retained, all other small plants, stones, edging and similar items that have been placed on the Seaside Parade public verge by the owner, must be completely removed and disposed of, wholly at the applicants cost, with this area to be re-graded and reinstated purely with new turf.

#### **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**

44. 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**

45. 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 & Road Openings**

46. The owner/developer must meet the full cost for a Council approved contractor to:

- a) Construct/reconstruct concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site, Council's specifications and requirements.
- b) Remove any remaining redundant concrete vehicular crossing and layback and to reinstate the area with, turf and integral kerb and gutter to Council's specification.
- c) Construct new footpath across the street verge to Council's specifications and requirements opposite the pedestrian entrance to the site.
- d) Fill & regrade Council's verge as required to Council's specifications and requirements, including any retaining walls as required

***NOTE: Refer also to 'Street Tree Protection' condition earlier in this report for requirements relating to any new external civil works being performed near the Council street trees.***

47. 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.

48. 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**

49. 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 consent.

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.

#### **Landscaping**

50. The PCA must ensure that landscaping at this site has been installed in accordance with any approved plan and any relevant conditions of consent, prior to the issue of any Final Occupation Certificate, with the owner to maintain it in a healthy and vigorous state until maturity.
51. The nature-strip upon Council's footway shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to the issue of any Occupation Certificate.

#### **Tree Protection Certification**

52. 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 and any other instructions issued on-site were complied with during the course of construction.

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

53. 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.

#### **External Lighting**

54. 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.

#### **Waste Management**

55. Adequate provisions are to be made within the premises for the storage and removal of waste and recyclable materials, to the satisfaction of Council.

**Plant & Equipment – Noise Levels**

56. The operation of all plant and equipment on 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  $L_{A90, 15 \text{ min}}$  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.

**Air Conditioners**

57. Air conditioning plant and equipment shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:

- before 8.00am or after 10.00pm on any Saturday, Sunday or public holiday; or
- before 7.00am or after 10.00pm on any other day.

**Rainwater Tanks**

58. The operation of plant and equipment associated with rainwater tanks are to be restricted to the following hours if the noise emitted can be heard within a habitable room in any other residential premises:

- before 8.00am or after 8.00pm on weekends or public holiday; or
- before 7.00am or after 8.00pm on weekdays.

**Use of parking spaces**

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

**ADVISORY NOTES**

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

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

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

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

- A *Construction Certificate* has been obtained from an Accredited Certifier or Council,
- An Accredited Certifier or Council has been appointed as the *Principal*

*Certifying Authority* for the development,

- Council and the Principal Certifying Authority have been given at least 2 days notice (in writing) prior to commencing any works.

A3 Council 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.

A4 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.

A5 A Local Approval application must be submitted to and be approved by Council's Building Approvals & Certification team 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's Building Approvals & Certification team on 9093 6971.

A6 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 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).

A8 The finished ground levels external to the building must 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.

A9 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.

- 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.
- 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.
- 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.

**CARRIED UNANIMOUSLY.**

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**CHAIRPERSON**