



**MINUTES OF RANDWICK LOCAL PLANNING PANEL OF THE
COUNCIL OF THE CITY OF RANDWICK HELD ON
THURSDAY, 22 NOVEMBER 2018 AT 1:10PM**

Present:

Chairperson:	Annelise Tuor
Expert Members:	Jason Perica; Oliver Klein
Community Representatives:	Michelle Finegan (West Ward)
Council Officers present:	
Manager Development Assessment	Mr F Ko
Executive Planner	Ms E Fitzroy
Senior Administrative Coordinator	Ms J Hartshorn

Declarations of Pecuniary and Non-Pecuniary Interests

Nil.

Address of RLPP 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:

D91/18	11 MERMAID AVENUE, MAROUBRA (DA/9/2018)	
	Objector	Ms Helen Deegan
	Objector	Mr George Phillips
	Applicant	Ms Kim Samuel (representing the applicant)
D92/18	162 ARDEN STREET, COOGEE (DA/63/2018)	
	Objector	Ms Susan Thompson
	Applicant	Mr Anthony Betros (representing the applicant)
D94/18	252-254 MAROUBRA ROAD, MAROUBRA (DA/199/2018)	
	Applicant	Mr Anthony Betros (representing the applicant)
D95/18	15 WINCHESTER ROAD, CLOVELLY (DA/240/2007/C)	
	Councillor	Cr Lindsay Shurey
	Objector	Ms Athena Vantos
	Applicant	Ms Kerri Marriott

Urgent Business

Nil.

Development Application Reports

D91/18 Development Application Report - 11 Mermaid Avenue, Maroubra (DA/9/2018)

REASONS:

The Panel has visited the site, considered the submissions and reviewed the assessment report prepared by Council officers that addresses the relevant matters detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.

The existing building does not comply with the height and floor space ratio standards. However; the proposed development (as amended) will achieve greater compliance with these standards. The Panel therefore is satisfied that the development standards may be varied under Clause 4.6 of Randwick Local Environmental Plan 2012 and adopts the recommendation in the report.

Similarly the proposal (as amended by conditions) will improve the overall impact of the development on the foreshore and neighbouring properties when compared to the impact of the existing development.

The panel has considered the impact of the development in the foreshore in accordance with Clause 6.2 of the RLPP 2012 and the Coastal Management SEPP 2018, and amended condition 2 to delete the proposed deck on lower level 4 and associated earthworks in the foreshore area (while also noting other generous private open space areas). Furthermore the panel has amended condition 26 to ensure that appropriate landscaping is provided to maintain the amenity and aesthetic appearance of the foreshore area.

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 and floor space ratio standard in Clause 4.4 of the Randwick Local Environmental Plan 2012. The concurrence of the Director of the Department of Planning & Environment may be assumed.
- B. That the RLPP grants development consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 9/2018 for Alterations and additions to the existing building and conversion of the building into an attached dual occupancy including associated site and landscaping works, at No. 11 Mermaid Avenue, Maroubra, subject to the development consent conditions attached to the assessment report, with the following amendments:

- **Amend condition 2 as follows:**

- **Amendment of Plans & Documentation**

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a) A privacy screen shall be provided to the northern side of the balcony at Lower Level 3 having a height of 1.6m (measured above the balcony).
 - b) The proposed deck on Lower Level 4 shall be deleted and the eastern wall to the plant room shall be appropriately finished with natural stone. The area between the existing dwelling and the foreshore shall be landscaped while generally maintaining existing ground levels. Stairs and access paths to the foreshore may be permitted in accordance with condition 26.
 - c) The privacy screens provided on the southern sides of the balconies at the Ground Floor and Lower Levels 1 and 2 shall be setback 0.9m from the southern sides of the southern wall at the balcony edge.

- d) All privacy screen/s to balconies / to the terrace and as shown to windows must be constructed with either:
 - Translucent or obscured glazing (The use of film applied to the clear glass pane is unacceptable) ;
 - 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.
 - e) A 0.9m setback shall be provided to the balustrades on the northern side of the balconies at the Ground Floor and Lower Levels 1 and 2 (measured from the northern side of the balconies).
 - f) All new balustrading shall be clear glass so as not to obscure views through the balustrading.
 - g) The shade structure above the rear balcony on Lower Level 1 shall have a maximum depth of 1m as measured from the eastern façade and be cantilevered with no supporting vertical structures.
 - h) The shade structure above the rear balcony on Lower Level 2 shall have a maximum depth of 1m as measured from the eastern façade and be cantilevered with no supporting vertical structures.
 - i) The additional infill balcony areas at the Lower Level 2, and Lower Level 3 shall be deleted. If the applicant wishes to square off the chamfered elements within the balconies this can be achieved by making the existing balconies smaller.
 - j) Any air conditioning equipment shall not be provided on the uppermost roof and shall not be visible from the street or foreshore. They shall also be suitably screened from neighbours.
- **Amend condition 26 as follows:**

Landscape Plans

26. The Landscape Plans by Site Design Studios, dwg's L01-02, rev C, dated 15/12/17, must be amended to include the following additional details, with these revised, compliant plans needing to be submitted to, and be approved in writing by, Council's Landscape Development Officer (9093-6613), before being forwarded to the Certifying Authority/PCA:
- i. A revised landscape treatment between the dwelling and foreshore that complies with condition 2b and includes native and appropriate planting and visual screening to lower level 4 when viewed from the foreshore.

This shall generally maintain existing ground level whilst still allowing some modification for pedestrian access to the foreshore.
 - ii. Inclusion of a notation stating that any native/remnant vegetation that is encountered during weed clearing/landscape works will be retained and incorporated into the design wherever possible;
 - iii. Details of the design and materials to be used for any new boundary fencing around the perimeter of the rear setback;
 - iv. Location and materials to be used for any retaining walls/terracing, stairs/steps and similar on the lower terraces/sloped embankment;
 - v. Location and extent of all stormwater pipes, trenches and similar in the rear setback, refer also to 'Stormwater Drainage' condition;
 - vi. Existing and finished ground levels/contours, including how any exposed bedrock

will be incorporated into the landscape works.

- **Amend condition 54 as follows:**
54. The premises must only be used as a dual occupancy and must not be used for multi-occupancy purposes or short term rental accommodation

CARRIED UNANIMOUSLY.

**D92/18 Development Application Report - 162 Arden Street, Coogee
(DA/63/2018)**

REASONS:

The Panel has visited the site, considered the submissions and reviewed the assessment report prepared by Council officers that addresses the relevant matters detailed in 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 subject to condition 2 being amended to incorporate improved privacy and landscaping measures to the rear. In particular, the Panel notes that the development complies with the height and Floor Space Ratio standards in Randwick Local Environmental Plan 2012 (LEP) and is consistent with Randwick Comprehensive Development Control Plan 2013 (DCP). Notably, the rear setback exceeds the requirement in the DCP. The separation distance, provision of landscaping in the rear setback and the rear balconies will achieve acceptable privacy. The proposal provides no parking but this is consistent with the relevant objectives under Part B7 of the DCP. The proposal is in close proximity to public transport and conditions 78 & 79 precludes future occupants of the development from participating in Council's resident parking scheme. It is therefore unlikely that the proposed studio apartments will be suited to residents with cars and will therefore will not generate increased demand for parking or unreasonable traffic impacts. Condition 10 requires a construction management plan to address the potential impacts during construction due to the constraints of providing access to the site. The form and impacts of the development are therefore consistent with what is anticipated by the planning controls.

The community representative noted that the proposed development significantly impacts the local community. The density proposed for the site is unacceptable. The area suffers from a considerable deficit of on-street parking, where the introduction of additional density without satisfying the parking requirement would only exacerbate this, to the detriment of the neighbourhood. The development does not adequately provide open communal space, the waste management proposal will negatively impact adjoining residents, construction traffic will increase traffic congestion exponentially and adjoining properties will lose peaceful enjoyment of their properties. Mrs Finegan was of the view the development will significantly decrease the community's enjoyment of the local area and has the potential to set an undesirable precedent. Mrs Finegan cannot support the application.

Jason Perica was of the view that the site dimensions and particularly the width of the site posed real difficulties in accommodating this form of development, while reconciling side and rear setbacks, amenity interfaces with neighbours and orientation of outlook over adjoining private land and site coverage/tree removal. He was minded to refuse the proposal in this regard. However, there are no minimum site dimension controls in Councils LEP and DCP and moreover Part C2.2 of the DCP contemplated and encouraged a form of flat development on narrower sites (under 12m in width), that the proposal is essentially consistent with. Given this guiding document for development for such uses, and compliance with the FSR and height standards (and rear setback) Mr Perica was of the view the governing key controls reasonably supported the proposal, and was therefore not able to support refusal of the application.

RESOLUTION:

That the RLPP grants development consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 63/2018 for demolition of existing structures and construction of a four storey residential flat building comprising seven apartments, at No. 162 Arden Street, Coogee, subject to the development consent conditions attached to the assessment report, with the following amendments:

Amend condition 2 as follows:

- Amendment of Plans & Documentation
2. The approved plans and documents must be amended in accordance with the following requirements:
- a. The ground level rear terrace to Unit G.01 is to be reduced in size to a maximum of size of 15m² with a depth of 3m. The deleted areas of the terrace are to be replaced with deep soil landscaping.
 - b. Fixed vertical privacy louvres directing views towards the rear of the site must be provided to the north facing windows for the rear apartments at Level 1, 2 and 3, namely windows: W1.03, 1.04, 2.03, 2.04, 3.01, 3.02.
 - c. Fixed vertical privacy louvres directing views towards the front of the site must be provided to the north facing windows for the front apartments at Level 1, 2 and 3, namely windows: W1.01, 1.02, 2.01, 2.02, 3.04.
 - d. Storage of 4m³ for the studios and 8m³ for the 2 bedroom apartment must be provided. This storage is in addition to storage in kitchens, bathrooms and bedrooms, and at least 50% must be located within the apartment.
 - e. A planter box with a minimum width of 600mm shall be provided for the full width of the balconies to the rear units on level 1 and above and shall be landscaped with shrubs that are to be maintained and provided with an automated irrigation system.
 - f. The landscaping at the rear of the site shown in the approved landscape plan by SOD (drawing No. LA03, Rev C, dated 4 June 2018) for a minimum distance of three metres from the western boundary, is to be in common ownership and managed by the Body Corporate to ensure that it provides an appropriate landscape buffer to adjoining properties for the life of the development. Appropriate access for maintenance of the landscaping shall be provided.

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

FOR	AGAINST
A Tuor	M Finegan
J Perica	
O Klein	
Total (3)	Total (1)

D93/18 Development Application Report - 5/19 Melrose Parade, Clovelly (DA/141/2018)

REASONS:

The Panel has visited the site and reviewed the assessment report prepared by Council officers that addresses the relevant matters detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.

The Panel refuses the application for the reasons detailed below.

RESOLUTION:

That the RLPP refuse development consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 141/2018 for a rooftop addition to the existing residential flat building to create an additional floor for Unit 5, at 19 Melrose Parade, Clovelly, for the following reasons:

1. The clause 4.6 requests relating to the variations to the Height of Buildings and Floor Space Ratio development standards of the *Randwick Local Environmental Plan 2012* are not supported as the proposal is inconsistent with the objectives standards and there are not sufficient environmental planning grounds to support the variations;

2. The proposal is inconsistent with the objectives of clause 6.7 Foreshore Scenic Protection Area of the RLEP 2012 as it will result in a visually jarring and prominent addition to the foreshore area;
3. The design of the proposal is poor and is inconsistent with the Design Quality Principles of *State Environmental Planning Policy No 65*;
4. The proposal is inconsistent with the objectives and design criteria of the Apartment Design Guide in relation to visual privacy;
5. The proposal is inconsistent with the objectives and controls of the Randwick Comprehensive Development Control Plan 2013 in relation to building facades, roof design, external wall height, ceiling height, solar access, visual privacy, view sharing and car parking;
6. The proposal will adversely impact the amenity of surrounding properties in terms of visual bulk, overshadowing, loss of privacy, and views loss; and,
7. The proposal would set an undesirable precedent for roof top additions to existing residential flat buildings over the height and FSR controls.

CARRIED UNANIMOUSLY.

D94/18 Development Application Report - 252-254 Maroubra Road, Maroubra (DA/199/2018)

REASONS:

The Panel has visited the site, considered the submissions and reviewed the assessment report prepared by Council officers that addresses the relevant matters detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.

For the reasons outlined in the assessment report, the Panel supports the exceptions to development standards under Clause 4.6 of Randwick Local Environmental Plan 2012 and adopts the recommendation in the report.

The Panel notes that building B is below the maximum building height. The panel considered that this provides suitable transition of the development to the adjoining laneway. The lower height of building B is fundamental to this determination. Building A is consistent with the predominant built form bulk and scale along Maroubra Road.

Condition 2e has been added to address potential privacy impacts from the uppermost levels of both buildings on adjoining properties.

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 and Floor Space Ratio development standards in Clause 4.3 and 4.4 of Randwick Local Environmental Plan 2012 respectively. The concurrence of the Director of the Department of Planning & Environment may be assumed
- B. That the RLPP, 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. 199/2018 for Demolition of existing structures, construction of a part 3/part 4 storey residential flat building in 2 building forms containing 12 dwellings, basement carparking for 16 vehicles, landscaping and associated works (variation to height and floor space ratio controls), at No. 252-254 Maroubra Road, Maroubra subject to the development consent conditions attached to the assessment report with the following amendments:

Add new condition 2 e:

2 e: The only accessible terrace areas on the second floor of building B and the third floor of

building A shall be the terraces to the north and south of the respective buildings with no access to the side setback areas.

CARRIED UNANIMOUSLY.

**D95/18 Development Application Report - 15 Winchester Road, Clovelly
(DA/240/2007/C)**

REASONS:

The Panel has visited the site, considered the submissions and reviewed the assessment report prepared by Council officers that addresses the relevant matters detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.

To ensure that privacy is maintained, the panel considers that the applicant should be required to either lower the deck or increase the height of the privacy screen to ensure that the privacy screen be a minimum height of 1.6 metres above the finished floor level of the non-trafficable deck.

RESOLUTION:

That the RLPP grants development consent under Sections 4.55 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 240/2007/C to modify condition 75 to allow for the retention of the existing deck along the northern side of the dwelling house at first floor level, at No. 15 Winchester Road, Clovelly, in the following manner:

- **Amend Condition 75 to read:**

75. Use of the deck at the first floor (northern side)

The deck along the northern side of the dwelling house at first floor level shall remain non-trafficable at all times. This deck is to be accessed from the front balcony for maintenance purposes only.

- **Add the following Conditions:**

75A. The louvre windows and the fly screens along the northern elevation adjoining the first floor deck are to remain in place at all times other than for maintenance purposes. The louvres must not be removed to allow general access to the deck.

75B. The privacy screen along the northern side of the dwelling at first floor level shall have a minimum height of 1.6 metres above the finished floor level of the deck. This can be achieved by either increasing the height of the screen (to match the existing screen) or by lowering the finished floor level of the deck.

75C. The deck must contain planter boxes spaced at regular intervals for the entire length of the space positioned in a manner that ensures it is not used for general access.

CARRIED UNANIMOUSLY.

**D96/18 Development Application Report - 9 Carlton Street, Kensington
(DA/92/2018)**

REASONS:

The Panel has visited the site, considered the submissions and reviewed the assessment report prepared by Council officers that addresses the relevant matters detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.

For the reasons outlined in the assessment report, the Panel supports the exceptions to development standards under Clause 4.6 of Randwick Local Environmental Plan 2012 and adopts the recommendation in the report.

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 and Floor Space Ratio development standards in Clause 4.3 and 4.4 of Randwick Local Environmental Plan 2012 respectively. The concurrence of the Director of the Department of

Planning & Environment may be assumed.

- B. That the RLPP grants development consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 92/2018 for Alterations and additions to the third level of approved 4 storey residential flat building to convert the 2 studio dwellings into one 3 bedroom dwelling alterations and additions to the third level of approved 4 storey residential flat building to convert the 2 studio dwellings into one 3 bedroom dwelling, at No. 9 Carlton Street, Kensington, subject to the following development consent 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:

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>
A-1.01 Revision DA-A	MKD Architects	February 2018
A-2.05 Revision DA-A	MKD Architects	February 2018
A-2.06 Revision DA-A	MKD Architects	February 2018
A-3.02 Revision DA-A	MKD Architects	February 2018
A-3.04 Revision DA-A	MKD Architects	February 2018
A-4.01 Revision DA-A	MKD Architects	February 2018
A-4.02 Revision DA-A	MKD Architects	February 2018
A-4.03 Revision DA-A	MKD Architects	February 2018
A-4.04 Revision DA-A	MKD Architects	February 2018

<i>BASIX Certificate No.</i>	<i>Dated</i>
820143M_03	5 February 2018

2. This development consent DA/92/2018 amends the development consent DA/304/2017 only in so far as the modifications highlighted on the plans referenced in Condition 1 and the conditions of this consent.
3. Tandem carspaces 7 & 10 on the approved plans must be allocated to one of the 3 bedroom units.

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

4. **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
5. 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.

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

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

- Sydney Water
7. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

The approved plans must be submitted to the Sydney Water **Tap in™** online service, to **determine whether the development will affect Sydney Water's waste water and water mains, stormwater drains and/or easements**, and if any further requirements need to be met.

The **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™** 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.

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
8. In accordance with section 80A (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).

BASIX Requirements

9. 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.

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.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

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

Certification, PCA & other Requirements

10. Prior to the commencement of any building works, the following requirements must be complied with:
- a) a *Construction Certificate* must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.
A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
 - b) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
 - c) a licensed *principal contractor* must be appointed for the building work, or in relation to residential building work, an *owner-builder* permit may be obtained in accordance with the requirements of the *Home Building Act 1989*, and the PCA and Council are to be notified accordingly; and
 - d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
 - e) at least two days' notice must be given to the Council, in writing, prior to commencing any works.

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

11. The building works must be inspected by the *Principal Certifying Authority*, in accordance with sections 109 E (3) of the *Environmental Planning & Assessment Act 1979* and clause 162A of the *Environmental Planning & Assessment Regulation 2000*, to monitor

compliance with the relevant standards of construction, Council's development consent and the construction certificate.

Dust Control

12. 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.*

Public Safety & Site Management

13. 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

14. 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

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

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

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

Survey Requirements

16. **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.

Site Seepage & Stormwater

17. Details of the proposed connection and or disposal of any groundwater or construction site stormwater to Council’s stormwater drainage system must be submitted to and approved by Council’s Development Engineering Coordinator, prior to commencing these works, in accordance with section 138 of the *Roads Act 1993*.

Details must include the following information:

- Site plan
- Hydraulic engineering details of the proposed disposal/connection of groundwater or site stormwater to Council/s drainage system
- Volume of water to be discharged
- Location and size of drainage pipes
- Duration, dates and time/s for the proposed works and disposal
- Details of water quality and compliance with the requirements of the *Protection of the Environment Act 1997*
- Details of associated plant and equipment, including noise levels from the plant and equipment and compliance with the requirements of the *Protection of the Environment Act 1997* and associated Regulations and Guidelines
- Copy of any required approvals and licences from other Authorities (e.g. A water licence from the Department of Planning/Department of Water & Energy).
- Details of compliance with any relevant approvals and licences

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

18. 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

19. 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

20. 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

21. 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 > *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

22. 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

23. 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.

24. Prior to issuing a final occupation certificate or occupation of the development (whichever is sooner), the owner/developer 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.

25. 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.

Sydney Water

26. A compliance certificate must be obtained from Sydney Water, under Section 73 of the **Sydney Water Act 1994**. **Sydney Water's assessment will determine the availability of water and sewer services**, which may require extension, adjustment or connection to their mains, and if required, will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a

Sydney Water accredited Water Servicing Coordinator (WSC).

Go to sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

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

Stormwater Drainage

27. 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 detention/infiltration/pump-out system is maintained and that no works which could affect the design function of the detention/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.
28. 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 of any detention basin/s with finished surface levels;
 - Finished site contours at 0.2 metre intervals;
 - Volume of storage available in any detention areas;
 - The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes;
 - The orifice size/s (if applicable);
 - Details of any infiltration/absorption systems; and
 - Details of any pumping systems installed (including wet well volumes).
29. The applicant shall submit to the Principal Certifying Authority (PCA) and Council, certification from a suitably qualified and experienced Hydraulic Engineer, which confirms that the design and construction of the stormwater drainage system complies with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing & Drainage-Stormwater Drainage) and conditions of this development consent.

The certification must be provided following inspection/s of the site stormwater drainage system by the Hydraulic Engineers to the satisfaction of the PCA.

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.**

Use of parking spaces

30. 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.

Fire Safety Statements

31. 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

32. There are to be no emissions or discharges from the premises which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.

Waste Management

33. Adequate provisions are to be made within the confines of the premises for the storage, collection and disposal of waste and recyclable materials, to the satisfaction of Council, prior to commencing business operations.

The waste storage area must be located within the property and not within any areas used for the preparation or storage of food.

A tap and hose is to be provided within or near the waste storage area and suitable drainage provided so as not to cause a nuisance.

Waste/recyclable bins and containers must not be placed on the footpath (or road), other than for waste collection, in accordance with Council's requirements.

External Lighting

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

Plant & Equipment – Noise Levels

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

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 Office of Environment & Heritage (EPA) Noise Control Guidelines.

Air Conditioners

36. 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.

Stormwater Detention/Infiltration System

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

Residential Parking Permits

38. 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.

39. 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.

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 applicant and operator are also advised to engage the services of a suitably qualified and experienced Acoustic consultant, prior to finalising the design and construction of the development, to ensure that the relevant noise criteria and conditions of consent can be fully satisfied.

Notes:

- The standard conditions may be modified or supplemented by additional non-standard site specific conditions to address any specific building, drainage, infrastructure, environmental amenity or waste management considerations, as proposed by relevant referral officers.
- Appropriate operating hours to be specified by Development Assessment officer **having regard to standard condition No's. 136 to 138, relevant Council Policies/Plans**, potential environmental impacts and any relevant complaint history.

- A2 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.**

- A3 In accordance with the requirements of the *Environmental Planning & Assessment Act 1979*, building works, including associated demolition and excavation works (as applicable) must not be commenced until:

- A *Construction Certificate* has been obtained from an Accredited Certifier or Council,
- An Accredited Certifier or Council has been appointed as the *Principal Certifying Authority* for the development,
- Council and the Principal Certifying Authority have been given at least 2 days notice (in writing) prior to commencing any works.

- A4 Council can issue your *Construction Certificate* and be your *Principal Certifying Authority* for the development, to undertake inspections and ensure compliance with the development consent and relevant building regulations. For further details contact Council on 9093 6944.

- A5 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.

- A6 Any proposed amendments to the design and construction of the building may require a new development application or a section 96 amendment to the existing consent to be obtained from Council, before carrying out such works

- A7 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.

- A8 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.
- A9 Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be **observed when working in the vicinity of plant or assets. It is the individual's responsibility** to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.
- A10 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.

CARRIED UNANIMOUSLY.

D97/18 Development Application Report - 238-242 Alison Road, Randwick (DA/434/2018)

REASONS:

The Panel has visited the site, considered the submission and reviewed the assessment report prepared by Council officers that addresses the relevant matters detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.

The panel recognises some positive aspects of the proposal such as the removal of the detracting garage and a sympathetic fence treatment to the garage entry. However, a number of fundamental concerns were held.

The panel considers that the development in its current form will have an adverse impact on the significance of the heritage item. In particular, the extent of the development (carport, garage, storage and 6 metres wide opening) in the front curtilage of the item and on the corner of the street is excessive. Furthermore the proposal removes the crepe myrtle to the north-west of the proposed garage, which provides some streetscape and neighbor amenity, which should reasonably be able to be retained.

The new structure in its context is simply too large and the panel recommends refusal.

RESOLUTION:

That the RLPP refuse development consent under Sections 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 434/2018 for the demolition of the existing garage and construction of a garage and carport structure including modifications to existing front boundary fencing facing Alison Road at No. 238 - 242 Alison Road Randwick for the following reasons:

- 1) The proposal has an adverse impact on the significance of the heritage item due to the extent of development within its front curtilage.

- 2) The proposal removes a tree that contributes to the streetscape and neighbour amenity, which could reasonably be retained.
- 3) The driveway entry is too wide and adversely impacts the front fence.

CARRIED UNANIMOUSLY.

Miscellaneous Reports

Nil.

The public meeting adjourned at 2.35pm.

The panel meeting was concluded abruptly due to a fire alarm that required evacuation of the council building. At the time of evacuation, the Panel had completed their deliberations but had not reconvened the public meeting for voting. The Chair determined that the voting could be undertaken electronically by circulation of the draft resolutions. The Panel Guidelines allow for the Chair to vary the meeting procedures in this manner. Given that the public meeting was not reconvened, there is no audio recording of the voting. The written minutes record the resolutions and voting outcomes.

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CHAIRPERSON