



## MINUTES OF RANDWICK LOCAL PLANNING PANEL MEETING HELD ON THURSDAY, 14 FEBRUARY 2019 AT 1:06PM

### Present:

<b>Chairperson:</b>	Annelise Tuor
<b>Expert Members:</b>	Julie Savet Ward; Peter Romey
<b>Community Representatives:</b>	Peter Ryan (South Ward)
<b>Council Officers present:</b>	
Manager Development Assessment	Mr F Ko
Executive Planner	Ms E Fitzroy
Senior Administrative Coordinator	Ms J Hartshorn

### Declarations of Pecuniary and Non-Pecuniary Interests

Peter Romey declared a reasonably perceived conflict of interest in Item M1/19. Mr Peter Romey left the meeting when this matter was considered and took no part in the debate or voting on this matter.

### Address of RLPP by Councillors and members of the public

Deputations were received in respect of the following matters:

D1/19	216-216A MALABAR ROAD, SOUTH COOGEE (DA/226/2018)
<b>Objector</b>	Mr Alan Brady
<b>Applicant</b>	Mr Eugene Sarich (representing the applicant)
D2/19	1 ADAMS AVENUE, MALABAR (DA/814/2018)
<b>Objector</b>	Mr Evert den Hollander
Applicant	Mr George Katrip
D3/19	15 SEASIDE PARADE, SOUTH COOGEE (DA/6/2018/A)
<b>Applicant</b>	Ms Jennie Askin (representing the applicant)
D4/19	12 CAMPBELL STREET, CLOVELLY (DA/653/2018)
<b>Councillor</b>	Mayor Cr Kathy Neilson
<b>Objector</b>	Mr Carl Willuweit
<b>Applicant</b>	Mr Michael Vine (representing the applicant)
M1/19	PLANNING PROPOSAL TO CREATE A NEW HERITAGE CONSERVATION AREA INCORPORATING 37-41 DUDLEY STREET AND 142A-152 BROOK STREET WITHIN THE RANDWICK LEP 2012

<b>Councillor</b>	Mayor Cr Kathy Neilson
<b>Councillor</b>	Cr Murry Matson
<b>Councillor</b>	Cr Lindsay Shurey
<b>For</b>	Ms Josanne Ryan
<b>Against</b>	Mr Adam Touma
<b>Against</b>	Mr John Oultram

After the above speakers had addressed the Panel, the chair advised that, in accordance with the adopted RLPP Guidelines, the Panel was going to:

- **Adjourn to the public meeting to deliberate on Item M1/19 and then reconvene the public meeting to vote on this matter (due to the matter being of significant public interest).**

In accordance with the above procedures, the public meeting was adjourned at 3.14pm and then reconvened at 4.21pm for voting on item M1/19.

The public meeting was then closed at 4.25pm and the Panel moved to the Coogee Room to deliberate and vote on all other items. Panel deliberations and voting concluded at 8.30pm.

The resolutions, reasons and voting outcomes for each item on the agenda are detailed below:

### **Development Application Reports**

**D1/19      Development Application Report - 216-216A Malabar Road, South Coogee  
(DA/226/2018)**

#### **RESOLUTION:**

That the RLPP grant "**Deferred Commencement**" consent under Section 4.16(3) of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No. 226/2018 for demolition of existing structures, construction of a 2 storey boarding house in 2 building forms comprised of 15 boarding rooms, 8 car park spaces, motorcycle and bicycle spaces, landscaping and associated works, at No. 216-216A Malabar Road, South Coogee subject to the conditions attached to this assessment report with the following amendments:

#### **A.      Include the following deferred commencement 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.

1. The cantilevered element facing Malabar Road and associated unit 6 shall be deleted with a consequent increase in the area of unit 7. Should a north facing window be included in the modified unit, the window should have a privacy screen as required by condition 2a.
2. The configuration of the common room and unit 5 should be reversed so that the common room adjoins the communal outdoor space. The size of the common room shall not be reduced and the area of unit 5 shall not be increased.
3. The size of the waste area shall be reduced to 8 x 240 litre bins, and if possible, relocated to a location within the undercroft parking area.
4. A revised Quantity Surveyors report shall be submitted to reflect the amended scope of works

**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:**

**A. Amend the standard conditions 3, 8 and 9 as follows:**

3. The maximum number of lodgers shall not exceed 17 at any one time.

Lodgers shall be provided with residence for 3 months or more in accordance with the "boarding house" definition in the Randwick Local Environmental Plan 2012.

8. In accordance with Council's Section 94A Development Contributions Plan effective from 21 April 2015, 1% of the development cost provided in the approved Quantity Survey report (as submitted in accordance with deferred commencement condition 4) must be paid to Council.

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

Please contact Council on telephone 9399 0999 or 1300 722 542 for the indexed contribution amount prior to payment. To calculate the indexed levy, the following formula must be used:

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

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).

9. A development compliance and enforcement fee of 0.1% of the estimated cost of work as per the Quantity Surveyors report submitted in accordance with the deferred commencement condition 4 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.

**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.

Whilst the Panel supports the proposal for the reasons given in the assessment report, the Panel considers that the design of the cantilevered element facing Malabar Road is not compatible with the character of the local area. This element and associated unit 6 should be deleted with a consequent increase in the area of unit 7. Should a north facing window be included in the modified unit, the window should have a privacy screen as required by condition 2a

This change will make the development approval for a total of 15 units (with 17 people) and reduce the overall amenity impacts of the development. Condition 3 has been amended accordingly.

In addition, the configuration of the common room and unit 5 should be reversed so that the common room adjoins the communal outdoor space. The size of the common room should not be reduced and the area of unit 5 should not be increased. This reconfigured layout will also reduce the potential noise impact of the common area on the neighbouring residential flat building.

To further improve the amenity of the communal outdoor space and adjoining common room, the size of the waste area should be reduced to contain only the required 8 x 240 litre bins, and if possible, relocated to a location within the undercroft parking area.

The Panel notes the applicant's request to amend conditions 8 and 9 to reduce the Section 94A contribution and compliance fee based on the reduced cost of works. However, given the absence of a revised Quantity Surveyors report, the Panel is unable to amend the conditions as requested. A revised Quantity Surveyors report has been requested as part of the deferred commencement condition and conditions 8 and 9 amended to reflect this requirement.

**CARRIED UNANIMOUSLY.**

**D2/19      Development Application Report - 1 Adams Avenue, Malabar (DA/814/2018)**

**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 the 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. DA/814/2018 for alterations and additions to the existing building including changes to the existing ground floor commercial premises, changes to the existing first floor dwelling, addition of a second floor to accommodate a second dwelling, rooftop terrace, ground floor car parking and courtyard, new detached first floor commercial premises, strata subdivision and associated site works at No. 1 Adams Avenue, Malabar subject to the development consent conditions attached to the assessment report with the following amendments:
1. **Amend condition 2 to read:**
  2. The approved plans and documents must be amended in accordance with the following requirements:
    - a) The communal roof terrace and all associated structures (including the planter boxes, service room, BBQ, stairs, privacy screens and awnings) shall be deleted and the roof shall be made non-trafficable.
    - b) The maximum height of the building shall not exceed RL 47.10 AHD.
    - c) The detached first floor commercial space including the associated stairs and balcony above the parking spaces at the rear of the site shall be deleted. The resulting roof to the parking facility (if required) shall be flat and must not exceed maximum height of 3m (measured above the existing ground levels).
    - d) The ground floor entrance on the corner of Adams Avenue and Nix Avenue must be retained and shall not be converted to additional commercial floor area. The door shall not encroach over the footpath when open.
    - e) The eastern boundary wall located between the 3 storey commercial / residential building and the detached parking facility shall not exceed 2.1m in height as measured from the FFL of the courtyard.

- f) The projecting Juliet balconies along the western façade of the 3 storey commercial / residential building shall be reduced in size so as not to encroach over the site boundaries.

Details of compliance with this condition are to be submitted to and approved by the Manager Development Assessment prior to the issue of Construction Certificate.

## 2. Delete conditions 4 and 19.

### REASON:

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 Panel is satisfied that the applicant's written request to vary the height standard under Clause 4.6 has adequately addressed the matters required to be satisfied by subclause 4.6 (3) but only to the extent to support a variation in the height to match the height of the adjoining building (RL 47.10 AHD). There are not sufficient environmental planning grounds, and it is not in the public interest to support the extent of variation sought by the proposal. In particular, the Panel notes that the extent of the proposed roof top structures (including the planter boxes, service room, BBQ, stairs, privacy screens and awnings) would result in a height of building that would be highly visible and would be inconsistent with the objectives of the height standard.

Furthermore, the Panel found that the extent of the proposed roof terrace and its use, would not be compatible with the surrounding residential uses. Finally, the Panel considered that adequate private open space is to be provided for each of the units through the provision of large north facing balconies.

For the reasons detailed in the assessment officers report, the Panel supports the Clause 4.6 exception to the floor space ratio standard and associated deletion of commercial space 2 at the rear of the site.

**CARRIED UNANIMOUSLY.**

## D3/19 Development Application Report - 15 Seaside Parade, South Coogee (DA/6/2018/A)

### RESOLUTION:

That the RLPP grant consent under Section 4.55 of the Environmental Planning and Assessment Act 1979, as amended, to modify Development Application No. DA/6/2018 by demolishing the existing the pool structure and constructing a new pool, deck, plant room and landscaping at No. 15 Seaside Parade, South Coogee, in the following manner:

#### 1. Delete Deferred Commencement Condition 1 (a)

#### 2. Amend Condition 1 to read:

- The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp:

<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

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

**EXCEPT where amended by Section 4.55 "A":**

- Council in red on the approved plans; and/or
- Other conditions of this consent; and/or
- the following Section 4.55 plans and supporting documents only in so far as they relate to the modifications highlighted on the Section 4.55 plans and detailed in the Section 4.55 application:

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>
1.04 s1 Pool Level Plan	Rolf Ockert Architect	October 2018
1.05 s2 Below Pool Level Plan	Rolf Ockert Architect	January 2018
2.01 s1 West and North Elevations	Rolf Ockert Architect	November 2018
2.02 s1 South Elevation	Rolf Ockert Architect	November 2018
2.03 s1 East Elevation	Rolf Ockert Architect	November 2018
2.04 s1 Long Section 1	Rolf Ockert Architect	October 2018

<b>BASIX Certificate No.</b>	<b>Dated</b>
879801S_02	20 October 2018

### 3. Amend Condition 3 to read as follows:

#### External Colours, Materials & Finishes

3. a) 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.

- b) The external colours, materials and finishes schedule for pool structure to the rear of the dwelling shall be in accordance with the following plan:

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>
M.01 (Revision s1) Material Palette	Rolf Ockert Architect	January 2019

- c) All gazing to the pool plant room must be opaque as noted on Drawing 1.05 revision S2.

### 4. Amend condition 28 to read as follows:

28. The 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 Manager Development Assessment, **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/or 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.

**The landscaping must be implemented in accordance with the approved landscape**

**plan prior to the issue of an occupation certificate.**

**5. Add the following conditions:**

**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.

**Swimming Pool Safety**

52. a) Swimming pools are to be designed and installed in accordance with the relevant requirements of the Building Code of Australia and be provided with childproof fences and self-locking gates, in accordance with the Swimming Pools Act 1992 and the Swimming Pools Regulation 2008.

The swimming pool is to be surrounded by a child-resistant barrier (e.g. fence), that separates the pool from any residential building (as defined in the Swimming Pools Act 1992) that is situated on the premises and from any place (whether public or private) adjoining the premises; and that is designed, constructed and installed in accordance with Australian Standard AS 1926.1 – 2012 (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools).

Gates to pool area must be self-closing and latching at all times and, the gate is required to open outwards from the pool area and prevent a small child opening the gate or door when the gate or door is closed.

Temporary pool safety fencing is to be provided pending the completion of all building work and the pool must not be filled until a fencing inspection has been carried out and approved by the principal certifying authority.

A 'warning notice' must be erected in a prominent position in the immediate vicinity of the swimming pool, in accordance with the provisions of the Swimming Pools Regulation 2008, detailing pool safety requirements, resuscitation techniques and the importance of the supervision of children at all times.

**Swimming Pool Requirements**

52. b) Swimming pools are to be designed, installed and operated in accordance with the following general requirements:
- i. Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation; and*
  - ii. All pool overflow water is to be drained away from the building and adjoining premises, so as not to result in a nuisance or damage to premises; and*
  - iii. Water recirculation and filtrations systems are required to comply with AS 1926.3 – 2010: Swimming Pool Safety – Water Recirculation and Filtration Systems; and*
  - iv. Pool plant and equipment is to be enclosed in a sound absorbing enclosure or installed within a building, to minimise noise emissions and possible nuisance to nearby residents.*

**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.

### Swimming pool

59. The pool 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 8.00pm on any Sunday or public holiday; or
- before 7.00am or after 8.00pm on any other day.

60. The area below the swimming pool shall not be used for habitable purposes.

### 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.

A10 Council's assessment of this application does not include an assessment of compliance with the *Swimming Pool Act 1992*. All pool barriers, fences and structures within properties containing a swimming pool must comply with the requirements of the *Swimming Pool Act 1992*, BCA and relevant Australian Standards.

Details of compliance with the *Swimming Pool Act 1992*, Building Code of Australia and relevant Standards must be included in the Construction Certificate to the satisfaction of the Certifying Authority.

### REASON:

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 Panel (by majority vote) supports the application for the reasons given in the assessment report.

Annelise Tuor provided the following reasons for voting against the resolution:

The height, bulk and materials of the replacement pool do not adequately address the reasons in the Panel's decision of the 21 August 2018. In particular, the increased width of the pool deck and substructure intrude into the foreshore building line and the extent of glazing does not result in a recessive structure. Therefore the proposal does not satisfy clause 14(b)(iii) of the Coastal SEPP.

### CARRIED.

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

FOR	AGAINST
Peter Romey	Annelise Tuor
Julie Savet Ward	
Pete Ryan	
<b>Total (3)</b>	<b>Total (1)</b>

### **D4/19 Development Application Report - 12 Campbell Street, Clovelly (DA/653/2018)**

#### 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. DA/653/2018 for *alterations and additions to approved development at lower ground floor level with associated works* at 12 Campbell Street, Clovelly, subject to the development consent conditions attached to the assessment report.

**REASON:**

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 Panel supports the application for the reasons given in the assessment report.

The Panel notes that drawings were tabled by the applicant at the meeting in response to the proposed deletion of the garage roof terrace. However, the Panel was aware that the Council had not assessed those plans and therefore the Panel was not in a position to properly consider them.

**CARRIED UNANIMOUSLY**

**Miscellaneous Reports**

**M1/19      Miscellaneous Report - Planning proposal to create a new Heritage Conservation Area incorporating 37-41 Dudley Street and 142A-152 Brook Street within the Randwick LEP 2012 (F2016/00475)**

**Note: Having previously declared an interest, Mr Peter Romey took no part in the debate or voting on this matter.**

The Panel has visited the sites, considered the submissions and reviewed the report prepared by Council officers

**RESOLUTION:**

That the Randwick Local Planning Panel advises Council that:

In principal the panel supports the planning proposal to amend Schedule 5 of the RLEP 2012 to include a new Heritage Conservation Area (HCA) 'Edgecumbe Estate'. However, the panel considers that:

1. Given there are conflicting expert heritage opinions regarding the listing of 39 Dudley Street and 148 Brook Street as individual heritage items, an independent peer review should be undertaken.

Furthermore, this review should consider whether 5 Edgecumbe Avenue should also be included as part of the new Heritage Conservation Area; and any other recommended amendments to the proposed new heritage conservation area.

2. The planning proposal should address all strategic directions of the Eastern City District Plan, particularly in relation to housing supply in the Randwick LGA.

**CARRIED UNANIMOUSLY**

CONFIRMATION OF MINUTES BY PANEL MEMBERS	
Annelise Tuor (Chairperson)	Julie Savet Ward
Peter Romey	Peter Ryan