



20th November, 2007

ORDINARY COUNCIL MEETING

NOTICE IS HEREBY GIVEN THAT AN ORDINARY COUNCIL MEETING OF THE COUNCIL OF THE CITY OF RANDWICK WILL BE HELD IN THE COUNCIL CHAMBER, TOWN HALL, 90 AVOCA STREET, RANDWICK, ON TUESDAY, 27TH NOVEMBER, 2007 AT 6:00 P.M.

1 Prayer & acknowledgement of local indigenous people

Prayer

"Almighty God,

We humbly beseech you to bestow your blessings upon this Council and to direct and prosper our deliberations to the advancement of your glory and the true welfare of the people of the City of Randwick and Australia.

Amen"

Acknowledgement of local indigenous people

"I would like to acknowledge that we are here today on the land of the Bidjigal people of the Dharwahal Nation. The Bidjigal people are the traditional owners and custodians of this land and form part of the wider Aboriginal nations of the Sydney area. On behalf of Randwick City Council I would also like to acknowledge and pay my respects to the Elders both past and present."

2 Apologies / Granting of leave of absences

3 Confirmation of the Minutes

CONFIRMATION OF THE MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON TUESDAY, 30TH OCTOBER, 2007.

4 Declaration of Pecuniary & Non-Pecuniary Interests

5 Addressing of Council by Members of the Public

6 Mayoral Minutes

Mayoral minutes (if any) will be issued and listed in a supplementary agenda.

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GENERAL MANAGER

Director, City Planning Report 101/2007



SUBJECT:	10-16A Bream Street, Coogee

DATE:	16 November, 2007	FILE NO:	DA/185/2007 & PROP039825 & 842

REPORT BY: DIRECTOR, CITY PLANNING

INTRODUCTION:

Development Application No. 185/2007 for the refurbishment of 4 existing shops and construction of new multi-unit housing development above and in a new building to the rear containing a total of 3 x 1 bedroom, 8 x 2 bedroom and 1 x 3 bedroom dwellings with basement carparking, plus strata subdivision at 10-16A Bream Street, Coogee, was considered by the Health, Building and Planning Committee on 9 October 2007. At the meeting, Council resolved that:

"Council as the responsible authority defer its development consent for Development Application No DA/185/2007 at 10-16A Bream Street, Coogee until the next Ordinary Council meeting to allow residents to continue discussions with the applicant on several issues, including privacy and noise."

ISSUES:

A mediation session was held on 14 November 2007 between residents and the applicant in which issues of concern raised by resident objectors to the proposed development were discussed. The Mediator advises in a letter to Council that these issues of concern (including overshadowing, traffic and carparking) were successfully mediated to the extent that resident objectors accepted explanations and assessment pertaining to the issues. The Mediator further advises that following the meeting the parties to the mediation session reached, and executed, an agreement in relation to three areas of concerns:

1. that the privacy screens on the east elevation of the balcony to Unit 1 on the Ground Floor, and Unit 4 on Level 1, of Building 2 be installed with louvres/blades that are fixed at an angle that directs all views away from, and thus ensures privacy to the residential properties at No. 18 and No. 20 Bream Street.

Comment: A condition to address this concern will be applied should approval be granted to the application.

2. that the responsibility for any liability in the event of damage to adjoining properties as a result of the proposed development be identified.

Comment: A condition requiring the preparation of dilapidation report to ensure the structural adequacy and integrity of the proposed building and that of adjacent premises has been applied in the original report to Council. Accordingly, it is considered that no further action is required in relation this concern.

3. that the Public Liability Insurance required to be held by the applicant be increased to \$20 million.

Comment: A standard condition applied in the original report requiring the applicant/builder to hold Public Liability Insurance of \$5 million will be amended to require a minimum liability of \$20 million.

CONCLUSION:

Having regard to the above issues, the original set of conditions recommended in the original report to the Health, Building and Planning Committee on 9 October 2007 will be amended to provide for fix louvre privacy screens on the east elevation and an increase in public liability insurance to \$20 million.

RECOMMENDATION:

- A. THAT Council as the responsible authority grant its development consent as a Deferred Commencement under Section 80(3) of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No DA/185/2007 for the refurbishment of 4 existing shops and construction of new multi-unit housing development above and in a new building to the rear containing a total of 3 x 1 bedroom, 8 x 2 bedroom and 1 x 3 bedroom dwellings with basement parking, plus strata subdivision at 10-16A Bream Street, Coogee, subject to the following conditions:

Deferred Commencement Conditions

The consent shall not operate until the following amendments and details have been submitted to and approved by the Director of City Planning.

1. Amended plans and elevations showing accurate dimensions and proportions for all architectural features of the proposal including the following:
 - the privacy screens on the east elevation of the balcony to Unit 1 on the Ground Floor, and Unit 4 on Level 1, of Building 2 be installed with louvres/blades that are fixed at an angle that directs all views away from, and thus ensures privacy to the residential properties at No. 18 and No. 20 Bream Street.
 - Provision of venting to the apartments and/or additional glass height in the north elevation and roof of Building 1 fronting Bream Street so as to utilise the height afforded by the proposed roof form to Bream Street as recommended by the Design Review Panel.
 - Increase in the area of all bedrooms, through internal redesign of bathrooms/service areas within the proposed envelope of the building that is subject of the DA as lodged and to be approved, in accordance with the requirements of the Residential Flat Design Code as recommended by the Design Review Panel (there shall be no increase in the envelope of the proposed building that is subject of the DA as lodged and approved).
 - Rearrangement of the internal areas of Unit No. 12 to improve circulation as recommended by the Design Review Panel.

- Inclusion of furniture layouts to floor plans.
 - Provision of privacy screen to balconies in Building 1 to enhance protection of privacy to No. 18 Bream Street.
 - Increase the height of planter boxes in the central courtyard above the basement carpark podium to provide adequate soil depth to tree plantings of 8-10 m as recommended by the Design Review Panel.
 - Inclusion of pergola design and pathway indicated on the landscape drawings into the architectural drawings as recommended by the Design Review Panel.
 - Deletion of the bi-fold windows in all shop fronts to Bream Street in Building 1 and replace with appropriate enclosing glazed element/façade.
 - The proposed gutter and down-pipes in the proposal to be suitably treated/concealed to further improve the visual amenity of proposal as recommended by the Design Review Panel
 - inclusion of sunshading and weather protection devices to windows and provision of details of window operation to optimise cross-ventilation and address security issues as recommended by the Design Review Panel.
2. Details of the external colours, materials, textures and finishes of the proposal in the form of a comprehensive sample board linked and coded to a coloured elevation and/or street perspective.

Subject to compliance with the deferred commencement conditions, to the satisfaction of the Director of City Planning, development consent is granted under Section 80 & 80A of the Environmental Planning and Assessment Act 1979 subject to the following conditions:

REFERENCED PLANS:

1. The development must be implemented substantially in accordance with the plans numbered DA03 to DA09, all dated June 2006, and stamped received by Council on 13 March 2007, and the application form, and on any supporting information received with the application, except as may be amended by the details/amendments approved pursuant to the deferred commencement conditions and by the following conditions and as may be shown in red on the attached plans:

The following conditions are applied to satisfy the provisions of section 79C of the Environmental Planning and Assessment Act 1979 and to maintain reasonable levels of environmental amenity:

2. Details of bicycle storage as required in the Development Control Plan – Parking shall be submitted to and approved by Council prior to a Construction Certificate being issued for the development.
3. Street numbering must be provided to the premises in a prominent position, to the satisfaction of Council.
4. The reflectivity index of glass used in the external façade of the development must not exceed 20 percent.
5. Lighting to the premises shall be designed in accordance with AS4282 – 1997 "Control of the Obtrusive Effects of Outdoor Lighting" so as not to cause a

nuisance to nearby residents or motorists and to ensure that light overspill does not affect the amenity of the area.

6. In accordance with the provisions of clauses 143A and 154A of the Environmental Planning & Assessment Regulation 2000, a 'Design Verification Certificate' must be provided to the Certifying Authority and the Council, prior to issuing a construction certificate and an occupation certificate, respectively.
7. Development consent is required to be obtained in relation to the specific 'use and operation' of shop tenancies or occupancies, in accordance with the relevant requirements of the Environmental Planning & Assessment Act 1979.
8. Public access to the visitor's carparking spaces is to be maintained at all times and an intercom system is to be provided adjacent to the vehicular entrance to the carpark, together with appropriate signage providing instructions for use.
9. In accordance with Section 80A (11) of the Environmental Planning and Assessment Act 1979 and Clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition that all of the required commitments listed in the relevant BASIX Certificate for this development are fulfilled.
10. In accordance with the provisions of the Environmental Planning & Assessment Regulation 2000, a relevant BASIX Certificate and associated documentation must be submitted to the Certifying Authority with the Construction Certificate application for this development.

The required commitments listed and identified in the BASIX Certificate are to be included on the plans, specifications and associated documentation for the proposed development, 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.

The following conditions are applied to satisfy the provisions of Council's environmental plans, policies and codes for subdivision works:

11. The registered proprietor of the land the subject of this consent shall enter into a positive covenant that no right of exclusive use and enjoyment of the whole or any specified part of the area or areas designated as common area or similar in the approved plans will be conferred on any person or persons without the prior approval of Randwick City Council.
12. Where the plans which are the subject of this consent reserves parking spaces and/or courtyards for the exclusive use and enjoyment to an occupier of the land, the registered proprietor shall enter into a positive covenant that no change will be made to such reservations without the prior approval of Randwick City Council.

The following condition/s are applied to satisfy the increased demand for public amenities and public services:

13. In accordance with Council's Section 94 Contributions Plan effective from 2 September 1999, the following monetary contribution is to be paid to Council.

a)	for the provision or improvement of open space	\$13489.00
b)	for the provision or improvement of community facilities	\$5967.00
c)	Administration fee	\$425.00

The contribution must be paid in cash or by bank cheque a **construction certificate being issued** for the proposed development, together with payment of the required **Section 94 Administration Fee of \$425.00**. Council's Section 94 Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick.

The following conditions are applied to maintain reasonable levels of environmental amenity and public health safety.

14. The development is to be staged requiring two separate Construction Certificates to enable the satisfactory Remediation of the site whilst fulfilling the requirements of Section 81A of the Environmental Planning and Assessment Act, 1979.

The Stage one (1) Construction Certificate is to encompass;

- Excavation (including remediation works required by the Remedial Action Plan)
- Piering, Piling and or Retaining of the excavation
- Structural support of existing structures
- Drainage

The Stage two (2) Construction Certificate is to encompass;

- The remainder of the development

15. The following conditions must be satisfied **prior to issuing a construction certificate for Stage One (1) of the development (or as otherwise stated below)**:

- a) A Remedial Action Plan must be prepared by an independent and appropriately qualified environmental consultant and a report must be submitted to and approved by Council's Manager Health, Building and Regulatory Services (or delegated officer) prior to the issue of the Stage One (1) Construction Certificate.

The report must include details of any required remediation works, having regard to the development and works encompassed in this consent.

- b) The land must be remediated to a level that will satisfy the relevant criteria in the National Environment Protection (Assessment of Site Contamination) Measure (NEPM) 1999, the following matters must be satisfied (as applicable):-
- c) A Remediation Action Plan (RAP) is required to be submitted to and approved by Council prior to the issue of the Stage One (1) Construction Certificate.

- I. The RAP is to be prepared in accordance with the relevant Guidelines made or approved by NSW Department of Environment and Climate Change (DECC), including;
 - The Guidelines for Consultants Reporting on Contaminated Sites
 - National Environment Protection (Assessment of Site Contamination) Measure (NEPM) Guidelines 2007.
 - NSW Planning Guidelines to SEPP 55 – Remediation of Land
- II. A written statement is to be provided to the Council from the Environmental Consultant, which confirms that the Remediation Action Plan satisfies the relevant legislative requirements and guidelines and that the land is able to be remediated to the required level and the land will be suitable for the intended development and use prior to the issue of the Stage One (1) Construction Certificate.
- III. Remediation works are required to be carried out in accordance with the relevant requirements of the Contaminated Land Management Act 1997, Guidelines made by the NSW Department of Environment and Climate Change (DECC) and Department of Infrastructure Planning & Natural Resources, Randwick City Council's Contaminated Land Policy 1999, the *Protection of the Environment Operations Act 1997* and conditions of development consent.
- IV. The requirements contained within any applicable Site Contamination Report, Remediation Action Plan, Site Management Plan or other strategy associated with the site contamination report and/or remediation strategy approved by Council, form part of this consent and must be complied with.
- V. Upon completion of remediation works, a Validation Report must be prepared by a suitably qualified Environmental Consultant and be submitted to and approved by Council **prior to the issue of the Stage two (2) Construction Certificate**. The validation report is required to confirm and provide details to demonstrate that the site is suitable for the proposed development and use and shall include:
 - Description and documentation of all works performed.
 - Results of validation testing and monitoring.
 - Validation results of any imported fill onto the site.
 - Demonstrate how all agreed clean-up criteria and relevant regulations have been satisfied.
 - Confirmation and justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants.
16. Any fill that is to be imported to the site is to be monitored, classified and documented by a suitably qualified Environmental Consultant. Only 'Virgin Excavated Natural Material' (VENM) is to be imported to the site, as defined within the NSW EPA 'Environmental Guidelines; Assessment, Classification and management of Liquid and Non-Liquid Wastes. 1999'.

17. Hazardous or intractable wastes arising from the demolition process being removed and disposed of in accordance with the requirements of WorkCover NSW and the Environment Protection Authority, and with the provisions of:
- New South Wales Occupational Health and Safety Act, 2000;
 - The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
 - The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
 - Protection Of the Environment Operations Act 1997 (NSW) and
 - Environment Protection Authority's Environmental Guidelines; Assessment, Classification and Management of Liquid and Non Liquid Wastes (1999).
18. The works shall not give rise to environmental pollution or public nuisance or, result in an offence under the Protection of the Environment Operations Act 1997 or NSW Occupational Health & Safety Act (2000) & Regulations (2001).

The following conditions have been applied to ensure that noise emissions from the development satisfy legislative requirements and maintain reasonable levels of amenity to the area:

19. The proposed use of the premises and the operation of all 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 premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background (L_{A90}), 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as an L_{Aeq} , 15 min and adjusted in accordance with the NSW Environmental Protection Authority's Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).

20. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises.
21. The development shall be ventilated in accordance with the relevant requirements of Part F of the BCA and Australian Standard A1668 Parts 1 & 2. Details of compliance with these standards and the BCA are to be submitted to and approved by the Certifying Authority with the construction certificate and a copy of the relevant documentation is to be provided to Council. In this regard, should mechanical ventilation be provided, the following is required:

A report, prepared by a suitably qualified and experienced consultant in acoustics, shall be submitted to the Council prior to an **occupation certificate for Stage (2)** being issued for the development, which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environmental Protection Authority Noise Control Manual & Industrial Noise Policy and conditions of Council's approval, to the satisfaction of Council's Manager Environmental Health & Building Services.

The following conditions are applied to satisfy the relevant pollution control criteria and to maintain reasonable levels of health, safety and amenity to the locality:

22. The use and operation of the premises shall not give rise to an environmental health or public nuisance and 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*.
23. Development consent is required to be obtained in relation to the specific 'use' of commercial tenancies/occupancies and 'shop fit outs', in accordance with the relevant requirements of the *Environmental Planning & Assessment Act 1979*.
24. The location and facilities for the collection, storage and disposal of wastes generated within the premises shall be submitted to and approved by Council **prior to the commencement of works.**

The following conditions are applied to provide adequate security against damage to Council's infrastructure:

25. The following damage/civil works security deposit requirement is to be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to the roadway, footway, verge or any public place; or 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*:

a) \$5000.00 - Damage / Civil Works Security Deposit

The damage/civil works security deposit may be provided by way of a cash or cheque with the Council and is refundable upon:

- A satisfactory inspection by Council that no damage has occurred to the Council assets such as roadway, kerb, guttering, drainage pits footway, or verge; and
- Completion of the civil works as conditioned in this development consent by Council.

The applicant is to advise Council, in writing, of the completion of all building works and/or obtaining an occupation certificate, if required.

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.

The following conditions are applied to provide adequate provisions for access, transport and infrastructure:

26. The applicant must meet the full cost for Council or a Council approved contractor to undertake civil works along both the Bream Street and Dolphin Lane site frontages as required to facilitate pedestrian and vehicular access to the site. These works will include, but not necessarily be limited to, the following:

Bream Street frontage:

- a) Reconstruction of any damaged sections of footpath along the full site frontage;
- b) Reconstruction of any damaged sections of kerb and gutter along the full site frontage (including associated roadworks).

Dolphin Lane frontage:

- c) Construction of an asphalt roadway, (or other pavement as determined by Council), between Carrington Road and the eastern property boundary with one way cross fall to the south;
 - d) Construction of concrete laybacks and vehicular crossings at the following locations:
 - i) Opposite the proposed vehicular entrance to the site;
 - ii) Opposite the existing vehicular entry point to 8 Bream Street;
AND
 - iii) At the end of the new asphalt laneway (to facilitate vehicular access into the park by service vehicles when required).
 - e) Construction of new concrete kerb and gutter on both the northern and southern sides of the laneway between Carrington Road and the eastern property boundary (except in the areas of layback as defined above);
 - f) Construction of a new kerb inlet pit in the lowest point of the reconstructed laneway and connection to Council's underground drainage system in Dolphin Street via a new 375mm diameter RRRCP pipeline. The new pit and the pipe junction into Council's existing underground drainage system shall be designed and constructed to the satisfaction of Council's Assets Drainage Engineer.
27. 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.
28. The applicant shall note that all external work, carried out on Council property, shall be in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works". An application for the cost of the Council civil works is to be submitted to Council at the completion of the internal building works. An application fee shall be payable to Council for the quotation of the required works. The applicant may elect to use his contractor for the required works, subject to Council approval, however a design and supervision fee based on the lowest quotation from Council's nominated contractor will be required to be paid prior to the commencement of any works.
29. Prior to the issuing of a Construction Certificate for the development site the applicant shall submit to Council for approval, and have approved, engineering details, specifications, plans and quality plans for all filling/excavation works, drainage construction works, roadworks, kerb and gutter construction, footpath construction, construction of earth retaining structures and site regrading, (including detailed levels, and cross sections that make reference to both existing and proposed surface levels) for all works associated with the

reconstruction of Dolphin Lane. The engineering details and specifications shall include level and survey information, materials to be used, construction techniques and testing procedures and shall be prepared in consultation with Council and to the satisfaction of the Director Of City Services. The engineering details and specifications must be prepared by suitably qualified engineering consultants who must certify that the details and specifications meet best engineering practice and relevant standards. The applicant must liaise with Council's Development Engineer Coordinator prior to preparation of the subject details/specification.

30. A separate written approval from Council is required to be obtained in relation to all works which are located externally from the site within the road reserve/public place, in accordance with the requirements of the Roads Act 1993. Detailed plans and specifications of the proposed works are to be submitted to and approved by the Director of City Services prior to commencing any works within the road reserve/public place.

All works within the road reserve/public place must be carried out to the satisfaction of Council and certification from a certified practicing engineer is to be provided to Council upon completion of the works. All works within the road reserve shall be undertaken in such a manner as to minimize the impact on vehicular access to the rear of 8 Bream Street.

Relevant Council assessment and inspection fees, as specified in Council's adopted Pricing Policy, are required to be paid to Council prior to commencement of the works.

31. All new walls adjacent to vehicular crossings must be lowered to a height of 600mm above the internal driveway level for a distance of 1.50m within the site or splayed 1.5 metre by 1.5 metre to provide satisfactory sight lines. Details are to be submitted to the Certifying Authority prior to the release of the construction certificate showing compliance with this condition.
32. The driveway opening at the Dolphin Lane frontage must be must be 4.5 metres wide with a 1.5 metre by 1.5 metre splay on the western of the driveway. The driveway will reduce to 3.0 metres in width going into the development site. The applicant is advised to contact Council's Development Engineer Coordinator to discuss this requirement prior to lodgement of the Construction Certificate Application. The Construction Certificate plans must demonstrate compliance with this requirement.
33. The internal driveway must be a minimum of 3.0 metres wide (clear width) at all points along the driveway with a 1.5 metre by 1.5 metre splay on the western side of the driveway as referenced above.
34. The vehicular access and carpark are to be in designed in strict accordance with the requirements of AS2890.1:2004 (including, but not limited to, the ramp grades, carpark layout and height clearances). The Construction Certificate plans must demonstrate compliance with this requirement. Particular attention must be given to the design gradients and transition sections along the proposed internal driveway given that a high point 300mm above the 1 in 100 year ARI flood level must be achieved/incorporated into the design.
35. A Works Zone is to be provided in Bream Street for the duration of the construction works. The 'Works Zone' shall be provided to the satisfaction of

the Randwick Traffic Committee and shall have a minimum length of 12 metres. The prescribed fee for the Works Zone must be paid to Council at least four (4) weeks prior to the commencement of work on the site.

It is noted that the requirement for a Works Zone may be waived if it can be demonstrated (to the satisfaction of Council's traffic engineer) that all construction related activities (including all loading and unloading operations) may be undertaken wholly within the site.

36. Prior to the issue of a construction certificate, the applicant shall submit for approval and have approved by Council's Traffic Engineer a detailed construction traffic management plan. The plan shall demonstrate how construction and delivery vehicles will access the development site during the demolition and construction phase of the development. The plan must also detail any proposed changes to the existing Bus Stop located in Bream Street and partially fronting the development site.

All traffic associated with the subject development shall comply with the terms of the approved construction traffic management plan.

37. The minimum clear distance from the existing footpath in Bream Street to the underside of any new / proposed awning shall be 3.00 metres. The plans submitted for the construction certificate shall demonstrate compliance with this requirement.
38. The minimum clear distance from the existing footpath in Bream Street to the underside of any new / proposed under awning sign shall be 2.60 metres. The plans submitted for the construction certificate shall demonstrate compliance with this requirement.
39. All new awnings shall be set back a minimum of 600mm from the face of kerb. The plans submitted for the construction certificate shall demonstrate compliance with this requirement.
40. Upon completion of the construction of any new awning, certification of the structural adequacy of the awning must be provided to the Council.

The following conditions are applied to provide adequate provisions for future civil works in the road reserve:

41. The Council's Development Engineer has determined that, as a guide, the design alignment level (concrete/paved/tiled level) at the property boundary for driveways, access ramps and pathways or the like, shall generally be:
- Bream Street frontage: Match the back of the existing footpath along the full site frontage.
 - Dolphin Lane frontage: These levels may vary following design of the reconstructed laneway, however, as a guide the alignment level for the new driveway will be approximately 100mm above the edge of the existing laneway.

The design alignment level at the property boundary must be strictly adhered to.

42. The design alignment levels (concrete/paved/tiled level) issued by Council and their relationship to the roadway/kerb/footpath must be indicated on the building plans for the construction certificate.
43. The above alignment levels and the site inspection by Council's Development Engineer has been issued at a prescribed fee of \$938.78 calculated at \$44.00 (inclusive of GST) per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.
44. The top of footings of any structures constructed on the boundary alignment must be at least 150mm below the alignment level as specified for the vehicular access. This condition has been attached to accommodate future footpath construction at this location.

The following conditions are applied to provide adequate consideration for service authority assets:

45. A public utility impact assessment must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.
46. The applicant must meet the full cost for telecommunication companies, gas providers, Energy Australia and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.
47. Documentary evidence from the relevant public utility authorities confirming that their requirements have been satisfied, must be submitted to the certifying authority prior to a construction certificate being issued for the development.
48. Any electricity substation required for the site as a consequence of this development shall be located within the site and shall be screened from view. The proposed location and elevation shall be shown on all detailed landscape drawings and specifications. The applicant must liaise with Energy Australia prior to lodging the construction certificate to determine whether or not an electricity substation is required for the development.
49. The applicant shall meet the full cost of the overhead power lines and telecommunication cables located in the vicinity of the development site to be relocated underground and all redundant power poles to be removed. The applicant shall liaise directly with the relevant service utility authorities to organise for the wires/cables to be relocated. All wires cables must be relocated underground to the satisfaction of the relevant service utility authority prior to the issuing of an occupation certificate for the development.

All electricity and telecommunication cables/wires to service the development site across the road carriageway and/or the Council nature reserve (footpath area) are to be located underground to the satisfaction of the relevant service utility authority

The following conditions are applied to provide adequate provisions for drainage and associated infrastructure:

Protection from flooding

50. The floor level of all habitable and storage areas (including the garbage room and any portions of the electrical and utilities cupboards that may be adversely affected by floodwater) shall be a minimum of 300mm above the calculated 1 in 100 year flood level for this site or suitably protected from stormwater inundation up to the subject level. Based on the flood study by Pyramid Consulting Engineers dated February 2007 the calculated 1 in 100 year flood level is RL 16.69 metres A.H.D and therefore 300mm above this level is R.L. 16.99 metres A.H.D. The Construction Certificate Application must demonstrate compliance with this requirement.
51. The proposed internal driveway (and any other openings into the basement carpark from Dolphin Lane) must be designed with a high point at least 300mm above determined 1 in 100 year flood level (i.e. a high point of R.L. 16.99 metres A.H.D) and in such a manner as to restrict stormwater inundation of the carpark area and surrounds. The plans submitted for the construction certificate shall demonstrate compliance with this requirement.

Further, the three car spaces proposed at the rear of the site adjacent to the entry to the basement carpark shall be located a minimum of 300mm above the determined 1 in 100 year flood level (i.e. at or above R.L 16.99 metres A.H.D) or suitably protected from stormwater inundation up to the subject level.

52. All windows, vents and other openings into the basement carpark (excluding the driveway opening) must be located at least 300 mm above the determined 1 in 100 year flood level, (i.e. at or above R.L 16.99 metres A.H.D) or suitably protected up to this level. The plans submitted for the construction certificate shall demonstrate compliance with this requirement.
53. All footings shall be suitably designed to ensure that they will not be adversely affected by stormwater/floodwater.
54. All structural walls on the ground floor level shall be designed to **structurally** withstand hydrostatic pressure/stormwater inundation from floodwater during the probable maximum flood (PMF) event as defined in the Floodplain Development Manual (New South Wales Government, April 2005). Structural Engineering certification confirming that this condition has been complied with shall be submitted to the certifying authority prior to the issuing of a construction certificate.

It is noted that this requirement does not necessitate the development being flood proof/water tight up to the PMF event, rather the requirement is to ensure that the development will not be **structurally** damaged in manner that could endanger lives during the PMF event.

Internal and External Drainage works

55. All stormwater run-off naturally draining to the site must be collected and discharged through this property's stormwater system. Such drainage must, if necessary, be constructed prior to the commencement of building work.
56. All site stormwater must be discharged (by gravity) to either:
- a) The underground drainage system in Dolphin Street, via the new

- drainage system to be constructed in Dolphin Lane; OR
- b) A suitably sized infiltration system (subject to geotechnical investigation confirming that the ground conditions are suitable for an infiltration system).

Notes: (i) Discharge to the underground drainage system in Dolphin Street will necessitate the applicant meeting all costs associated with constructing a new kerb inlet pit (in general accordance with Council's standard drawing SD7a) in the lowest point of Dolphin Lane and extending Council's underground drainage system up from Dolphin Street to connect into the new kerb inlet pit. Given that the low point pit will be located on the southern side of Dolphin Lane, stormwater discharge from the site may be taken to the kerb and gutter on the northern side of Dolphin Lane and permitted to flow across the lane into the new kerb inlet pit.

(ii) With the exception of the site discharge pipe, all new pipelines constructed within council's reserve shall be minimum 375 mm diameter, spigot and socket rubber ringed jointed, steel reinforced concrete pipeline (RRRCP). Prior to backfilling, all pipelines in council's reserve shall be inspected and approved by the Hydraulic Engineer certifying the works and Council.

57. With the exception of the site discharge pipe, all new pipelines constructed within council's road reserve or park shall be minimum 375 mm diameter, spigot and socket rubber ringed jointed, steel reinforced concrete pipeline (RRRCP). Prior to backfilling, all pipelines in council's road reserve or park shall be inspected and approved by the Hydraulic Engineer certifying the works and Council.
58. A work-as-executed plan prepared and signed by the hydraulic engineer or a registered surveyor, must be submitted to Council prior to the issuing of an occupation certificate, detailing the as constructed details for all works within Council's road reserve (including detailed levels).
59. All drainage details (for the external drainage works) shall be prepared by a suitably qualified hydraulic consultant who shall, at the completion of the works, certify that the drainage works have been constructed in accordance with the approved drainage plans and relevant standards. The plans and specifications for all works on Council property shall be submitted to and approval by Council prior to the issuing of a construction certificate.
60. Should stormwater be discharged to Council's underground drainage system, on-site detention must be provided to ensure that the maximum discharge from the above site is not to exceed that which would occur during a 1 in 10 year storm of 1 hour duration for the existing site conditions. All other stormwater run-off from the above site for all storms up to the 1 in 20 year storm is to be retained on the site for gradual release to the kerb and gutter or drainage system as required by the Council. Provision is to be made for satisfactory overland flow should a storm in excess of the above parameters occur.

Should no formal overland escape route be provided for storms greater than the design storm, the on-site detention system shall be sized for the 1 in 100 year storm event.

For small areas up to 0.5 hectares, determination of the required cumulative storage must be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Run-off Volume 1, 1987 Edition.

Where possible the detention tank must have an open base to infiltrate stormwater to the groundwater. Note that the ground water and any rock stratum has to be a minimum of 2.0 metres below the base of the tank.

61. Should stormwater be discharged to an infiltration system, the infiltration area shall be sized for all storm events up to the 1 in 20 year storm event with provision for a formal overland flow path to Council's Street drainage system.

Should no formal overland escape route be provided for storms greater than the design storm, the infiltration system shall be sized for the 1 in 100 year storm event.

62. Any Infiltration systems/Absorption Trenches must be designed in accordance with "Section 8.5 ABSORPTION TRENCHES" as stipulated in Randwick City Council's Private Stormwater Code.
63. The detention area/infiltration system must be regularly cleaned and maintained to ensure it functions as required by the design.
64. Any onsite detention/infiltration systems shall be located in areas to be dedicated as common property.
65. The maximum depth of ponding in any above ground detention areas (and/or infiltration systems with above ground storage) shall be as follows:
- a) 150mm in uncovered parking areas (with an isolated maximum depth of 200mm permissible at the low point pit within the detention area.
 - b) 300mm in landscaped areas (where child proof fencing is not provided around the outside of the detention area and sides slopes are steeper than 1 in 10)
 - c) 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10.
 - d) 1200mm in landscaped areas where a childproof fence is provided around the outside of the detention area

Notes:

- It is noted that above ground storage will not be permitted in any area which may be used for storage of goods.
 - Mulch/bark must not be used in onsite detention areas
66. Any above ground stormwater detention areas (and/or infiltration systems with above ground storage) must be suitably signposted where required, warning people of the maximum flood level.
67. The floor level of all habitable and storage areas adjacent to the detention area (and/or infiltration systems with above ground storage) must be a minimum of 300mm above the maximum water level in the detention area for the design storm or alternately a permanent 300mm high water proof barrier is to be constructed.

(In this regard, it must be noted that this condition must not result in any increase in the heights or levels of the building. Any variations to the heights or levels of the building will require a new or amended development consent from the Council prior to a construction certificate being issued for the development).

68. A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
69. A 'V' drain is to be constructed along the perimeter of the property, where required, to direct all stormwater to the detention/infiltration area.
70. A reflux valve shall be provided (within the site) over any pipelines discharging from the site into Council's underground drainage system to ensure that stormwater from Council drainage system does not surcharge back into the site stormwater system.
71. Should a pump system be required to drain any portion of the site the system must be designed with a minimum of two pumps being installed, connected in parallel (with each pump capable of discharging at the permissible discharge rate) and connected to a control board so that each pump will operate alternatively. The pump wet well shall be sized for the 1 in 100 year, 2 hour storm assuming both pumps are not working.

The pump system must also be designed and installed strictly in accordance with "Section 8.4 PUMP SYSTEMS" as stipulated in Randwick City Council's Private Stormwater Code.

72. A sediment/silt arrester pit must be provided:-
 - a) within the site at or near the street boundary prior to the site stormwater discharging by gravity to the kerb/street drainage system; and
 - b) prior to stormwater discharging into any absorption/infiltration system.

The sediment/silt arrester pit shall be constructed in accordance with the following requirements:-

- The base of the pit located a minimum 300mm under the invert level of the outlet pipe.
- The pit constructed from cast in-situ concrete, precast concrete or double brick.
- 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/s (Mascot GMS multipurpose filter screen or equivalent).
- The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system.
- A child proof and corrosion resistant fastening system provided

for the access grate (e.g. spring loaded j-bolts or similar).

- A sign adjacent to the pit stating:

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

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

73. One covered car washing bay shall be provided for this development.
- a) The car washing bay must be drained to sewer to the requirements of Sydney Water and proof of compliance is to be submitted to the certifying authority, prior to an occupation certificate being issued for the proposed development.
 - b) The car washing bay must be located outside any required/approved stormwater detention system.
 - c) The car washing bay may be located within the visitor parking spaces provided they are signposted with *'Exclusive Carwash Bay Use Sat 2:00pm – 5:00pm and Sunday 10:00am – 2:00pm, Visitor parking at other times'*
 - d) The car washing bay must be constructed with a minimum 20mm bund around the perimeter of the car washing bays (or equivalent)
 - e) A water tap shall be located adjacent to the car washing bay.
74. Prior to the issuing of an occupation certificate, the applicant shall submit to Council, a works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced Hydraulic Engineer. The works-as-executed drainage plan shall be to the satisfaction of the Principal Certifying Authority (PCA) and shall include the following details:
- a) The location of the detention basin with finished surface levels;
 - b) Finished site contours at 0.2 metre intervals;
 - c) Volume of storage available in the detention areas;
 - d) The location, diameter, gradient and material (i.e PVC, RC etc) of all stormwater pipes;
 - e) The orifice size(s) (if applicable);
 - f) Details of any infiltration/absorption systems; and
 - g) Details of any pumping systems installed (including wet well volumes).
75. Prior to the issuing of an occupation certificate, 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 the conditions of 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.
76. As the above site may encounter groundwater/seepage water within the depth of the basement excavation the basement carpark or similar structures are to be suitably tanked and waterproofed. A Structural Engineer\Geotechnical Engineer shall certify the tanking & waterproofing has been carried out to an

acceptable standard, to the satisfaction of the certifying authority. A copy of the certification is to be forwarded to Council.

Notes:-

- a) Any subsoil drainage (from planter boxes etc) is to be disposed of within the site and is not to be discharged to Council's kerb & gutter and/or underground drainage system.
- b) Adequate provision is to be made for the ground water to drain around the basement carpark (to ensure that the basement will not dam or slow the movement of the ground water through the development site). Seepage water must **not** be drained from the site.

The following conditions are applied to provide adequate provisions for waste management:

- 77. The residential waste storage area/s shall be sized to contain a total of 12 x 240 litre bins (6 garbage bins & 6 recycle bins) whilst providing satisfactory access to these bins. The commercial waste storage area/s shall be sized to contain a total of 8 x 240 litre bins (4 garbage bins & 4 recycle bins) whilst providing satisfactory access to these bins.
- 78. The waste storage areas are to be provided with a tap and hose and the floor is to be graded and drained to the sewer to the requirements of Sydney Water.
- 79. The waste storage areas shall be clearly signposted.
- 80. Prior to the issuing of a construction certificate for the proposed development the applicant is to submit to Council and have approved by Council's Manager of Waste Services, a Waste Management Plan detailing waste and recycling storage and disposal for the development site.

The plan shall detail the type and quantity of waste to be generated by the development; demolition waste; construction waste; materials to be re-used or recycled; facilities/procedures for the storage, collection recycling & disposal of waste and the on-going management of waste.

The following conditions are applied to satisfy the provisions of Council's environmental plans, policies and codes for subdivision works:

- 81. 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 (in conjunction with registration of the plan of strata subdivision) to ensure that the onsite detention system is maintained and that no works which could affect the design function of the detention 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. If new linen plans are being prepared for the site, the plans shall indicate the location and dimensions of the detention/infiltration areas.
 - c. 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.
- 82. The applicant shall create suitable right of carriageway, easements for access, services and internal stormwater lines, as required. The applicant shall be advised that the minimum easement width for any internal stormwater line is 0.9 metres.
- 83. A Section 73 Compliance Certificate under the Sydney water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.

Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Notice must be issued to the Principal Certifying Authority prior to the construction certificate being issued.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the plan of strata subdivision.
- 84. All conditions of development consent must be satisfied and all public roads and reserves must be satisfactorily restored prior to endorsement of the subdivision plans.
- 85. The applicant shall provide Council with a survey plan of the property prior to endorsement of the subdivision plans.

The following conditions are applied to provide adequate provisions for landscaping and to maintain reasonable levels of environmental amenity:

- 86. The landscaped areas shall be the subject of detailed landscape drawings and specifications, which are to be submitted to, and approved by, the certifying authority, prior to the issue of a construction certificate. The landscape drawings and specifications are to be prepared by a qualified Landscape Architect who is eligible for membership with the Australian Institute of Landscape Architects (AILA). The documentation is to include:
 - a. A site plan at an appropriate scale showing existing site boundaries, existing trees within the property (clearly identified as being retained or removed), existing street trees (clearly identified as being retained or removed), features on adjoining sites within 6 metres of the common property boundary (buildings, trees, other structures etc), council's footway, existing and proposed ground levels shown as spot heights and/or contours over the site, at site boundaries, and at the base of the tree/s to be retained, proposed building envelope, proposed areas of pavement, and proposed landscaped areas.

The plan shall clearly show the position, canopy spread (location of dripline), trunk diameter, height and names of all existing trees upon the site and adjoining sites within 6 metres of the common property boundary which are likely to be affected by the development.

- b. A planting plan at a scale of 1:100 or 1:200 indicating the location of all proposed planting and existing trees to be retained. All plants are to be drawn at their mature size with a dense planting of shrubs, accent plants and ground covers within all garden beds so that a continuous planted cover is achieved. Plant spacings are to be clearly indicated for all accent and groundcovers.
 - c. A planting schedule listing all plants by botanic & common names, plant numbers, plant spacings for groundcovers and accent planting, pot sizes, the estimated size of the plant at maturity (height & spread) and proposed staking methods when applicable.
 - d. Additional notation showing soil and mulch details, irrigation details, edging, paving, fencing details, surface finishes, retaining wall details, and any other landscape elements in sufficient detail to fully describe the proposed landscape works.
 - e. Position of existing and proposed site services including water, gas, electricity, sewer, stormwater, etc.
 - f. Sectional elevations through the site showing the existing and proposed groundlines, building elevations, and mature height of proposed planting.
 - g. The landscape plan shall show suitable screen planting along the southern site boundary to effectively screen the development site from the adjacent reserve and playground. The landscape plan shall also include specimens which will attain a size which will afford a reasonable degree of screening and privacy between this site and adjoining properties around the perimeter of the site, within those areas nominated as 'deep soil'.
 - h. All planter boxes and garden beds constructed on slab must have a minimum soil depth of 600mm and all lawn areas must have a minimum soil depth of 300mm. Planter box details shall be submitted with the detailed landscape plans.
 - i. The plan shall respect the prevailing coastal influences and the coast's special design considerations and requirements, and shall be designed accordingly. Generally, species selection shall be restricted to local indigenous coastal species, that require minimal watering once established or species with water needs that match rainfall and drainage conditions.
 - j. Location of easements within the site and upon adjacent sites (if any).
 - k. Provision of an irrigation system to ensure the long term sustainability of plants in balcony planters .
87. The landscaping shall be installed in accordance with the approved documentation prior to the issue of a final occupation certificate and shall be

maintained in accordance with those plans.

Documentary evidence is to be obtained from a suitably qualified Landscape Architect and submitted to the principal certifying authority (PCA) (and the Council, if the Council is not the PCA) prior to the issuing of a final occupation certificate which confirms that the landscaping works have been completed in accordance with the approved landscaping plans and relevant conditions of development consent, to the satisfaction of the PCA.

88. To ensure satisfactory maintenance of the landscaped areas, an automatic irrigation system shall be installed throughout all the landscaped areas. Such system shall provide full coverage to all the landscaped areas with no overspray onto driveways and pathways.

Details of the automatic irrigation system shall be shown on the detailed landscape plans and specifications. The system shall comply with all Sydney Water requirements, and relevant Australian Standards.

89. Any substation required shall be screened from view. The proposed location and elevation shall be shown on all detailed landscape drawings and specifications.
90. All detention tanks and below ground stormwater infiltration systems located within the landscaped areas shall have a minimum soil cover of 600mm to ensure sufficient soil depth to permit the establishment of landscaping on top of these services as stipulated by these conditions of development consent.

All stormwater documentation submitted for the construction certificate application shall show the top of the detention tanks and stormwater infiltration devices being 600mm below the finished ground level of the landscaped areas.

91. Landscaped areas must contain a predominance of species that require minimal watering once established or species with water needs that match rainfall and drainage conditions.

Tree Management

92. Permission is granted for the removal of those trees located within the development site and falling within the area occupied by the approved works, (this includes all trees on the development site). The applicant shall be required to ensure the retention and long term health of all trees located on adjoining properties adjacent to the proposed development. As a general guide there shall be minimal excavation or root pruning within the dripline/s of the subject tree/s.

Tree Protection Measures

93. In order to ensure the retention and health of the *Persea americana* (Avocado Tree) tree located within 8 Bream Street and adjacent to the common boundary with the development site, the following measures are to be undertaken:
- a. All detailed architectural, building, demolition, engineering (structural, stormwater & drainage, services), and landscape documentation submitted for the construction certificate application shall show the retention of the existing tree specimen with the position of the tree

trunk and full diameter of the tree canopy clearly shown on all drawings.

- b. Detailed architectural, building, demolition, engineering (structural, stormwater & drainage, services), and landscape documentation submitted for the construction certificate application shall show no alteration in the existing soil levels or the location of any structures, services, footings, paving, detention tanks, stormwater infiltration systems, pipes, cutting or battering of the existing soil profile, or any excavations within the extent of the tree's dripline.
- c. There is to be no pruning of the tree without the prior written consent of Council. Any approval for pruning shall be conditional upon the works being undertaken by a suitably qualified contractor.
- d. The tree is to be physically protected by the installation of protective fencing around the tree using 1.8 metre high steel mesh/chainwire fencing. This fencing shall be located within the development site around the extent of the dripline, (as a minimum).

This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed.

- e. Within this zone there is to be no storage of materials or machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of in the area, no stockpiling of soil or rubble, or any works listed in Point b.

Any works required within this zone (only as approved on the construction certificate) shall be under the direction of, and to the satisfaction of, a suitably qualified Arborist.

- f. Any excavations required for footings, structures, retaining walls, basement car parks, services, pipes, detention tanks, stormwater infiltration systems, paving etc within 1 metre of the extent of the dripline of the tree shall be undertaken by hand and under the direction of, and to the satisfaction of, a suitably qualified Arborist with all roots being cleanly cut.
- g. The installation of woodchip mulch to a depth of 75mm within the fenced off protection area as described in Point c.
- h. Watering of the tree (within the fenced off area) three times a week for the duration of the period of the refundable deposit described in Point i.
- i. The erection of signage on the fence with the following words clearly displayed: "TREE PROTECTION ZONE", "DO NOT ENTER".

- 94. Conditional upon the applicant proposing works within the dripline of the *Persea americana* (Avocado Tree) tree located within 8 Bream Street, and prior to the issuing of a Construction Certificate, the applicant must submit to the Certifying Authority and Council for approval, and have approved, a detailed Arborists Report (prepared by a consultant with a minimum qualification of Certificate 4 in Arboriculture) which includes site investigations such as root mapping and relevant recommendations to ensure the tree's

preservation during the course of the proposed works.

The following conditions are applied to ensure that the development satisfies the provisions of the *Environmental Planning and Assessment Act 1979* and Regulations:

95. 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 legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of `on-the-spot` penalty infringements or service of a notice and order by Council.

96. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA), in accordance with Clause 98 of the *Environmental Planning and Assessment Regulation 2000*.

97. **Prior to the commencement of any building works, a construction certificate must be obtained** from Council's Building Certification Services or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

A copy of the construction certificate, the approved plans & specifications and development 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.

98. **Prior to the commencement of any building works**, the person having the benefit of the development consent must:-

- i) appoint a *Principal Certifying Authority* for the building work, and
- ii) appoint a *principal contractor* for the building work, or in relation to residential building work, obtain an *owner-builder* permit in accordance with the requirements of the Home Building Act 1989, and notify the *Principal Certifying Authority* and Council accordingly in writing, and
- iii) unless the person having the benefit of the consent is the *principal contractor* (i.e. *owner-builder*), notify the *principal contractor* of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*, and
- iv) give at least two days notice to the Council, in writing, of the persons intention to commence building works.

In relation to residential building work, the principal contractor must be the holder of a contractor licence, in accordance with the provisions of the Home Building Act 1989.

99. The building works must be inspected by the *Principal Certifying Authority* (or another *certifying authority* if the *Principal Certifying Authority* agrees), in accordance with sections 109 E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant

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

The *Principal Certifying Authority* must specify the relevant stages of construction to be inspected in accordance with section 81A (2) (b1) (ii) of the Environmental Planning & Assessment Regulation 2000 and a satisfactory inspection must be carried out, to the satisfaction of the *Principal Certifying Authority*, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

Documentary evidence of the building inspections carried out and details of compliance with Council's consent is to be maintained by the *Principal Certifying Authority*. Details of *critical stage inspections* carried out and copies of certification relied upon must also be forwarded to Council with the *occupation certificate*.

The *principal contractor* or *owner-builder* (as applicable) must ensure that the required critical stage and other inspections, as specified in the *Principal Certifying Authority's* "Notice of Critical Stage Inspections", are carried out to the satisfaction of the *Principal Certifying Authority* and at least 48 hours notice (excluding weekends and public holidays) is to be given to the *Principal Certifying Authority*, to carry out the required inspection, before carrying out any further works.

100. 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".

101. 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.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The requirements of the Environmental Planning & Assessment Act 1979 and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

102. **Prior to the issuing of an interim or final occupation certificate**, a statement is required to be obtained from the Principal Certifying Authority, which confirms that the development is not inconsistent with the development consent and the relevant conditions of development consent have been satisfied.

Details of *critical stage* inspections carried out by the principal certifying authority together with any other certification relied upon must also be provided to Council with the occupation certificate.

103. In accordance with clause 98 of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition, that in the case of residential building work, a contract of insurance must be obtained and in force, in accordance with the provisions of the Home Building Act 1989.

Where the work is to be done by a licensed contractor, excavation or building work must not be carried out unless the Principal Certifying Authority (PCA):

- has been informed in writing of the licensee's name and contractor number; and
- is satisfied that the licensee has complied with the insurance requirements of Part 6 of the *Home Building Act 1989*, or

Where the work to be done by any other person (i.e. an owner-builder), excavation or building work must not be carried out unless the Principal Certifying Authority:

- has been informed of the person's name and *owner-builder* permit number, or
- has been given a declaration, signed by the owner of the land that states that the market cost of the labour and materials involved in the work does not exceed \$5,000.

Details of the principal building contractor and compliance with the provisions of the *Home Building Act 1989* (i.e. *Details of the principal licensed building contractor and a copy of the Certificate of Insurance*) are to be submitted to Council **prior to the commencement of works**, with the notice of appointment of the PCA / notice of intention to commence building work.

104. A single and complete **Fire Safety Certificate**, which encompasses all of the essential fire safety measures contained in the *fire safety schedule*, must be obtained prior to issuing an Occupation Certificate and be submitted to Council, in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000*. A copy of the Fire Safety Certificate must be displayed in the building entrance/foyer and a copy of the Fire Safety Certificate must also be forwarded to the NSW Fire Brigades.

105. The required Long Service Levy payment, under the Building and Construction Industry Long Service Payments Act 1986, is to be forwarded to the Long Service Levy Corporation or the Council, prior to the issuing of a Construction Certificate, 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.

106. As a minimum, the building is required to be provided with a smoke alarm system complying with Clause 3 of Specification E2.2a of the Building Code of Australia or a smoke detection system complying with Clause 4 of Specification E2.2a of the Building Code of Australia or a combination of a smoke alarm system within the sole-occupancy units and a smoke detection

system in areas not within the sole-occupancy units. The smoke detectors located within the stairway, corridors or the like must be interconnected.

Additional requirements regarding the design and installation of the smoke detection and alarm system may be specified in the construction certificate for the development.

The following group of conditions have been applied to ensure the structural adequacy and integrity of the proposed building and adjacent premises:

107. Documentary evidence prepared by a suitably qualified *professional geotechnical engineer* shall be submitted to the certifying authority **prior to the issuing of a construction certificate**, certifying the suitability and stability of the site for the proposed building and certifying the suitability and adequacy of the proposed design and construction of the building for the site.

108. A report shall be prepared by a *professional engineer* and submitted to the certifying authority **prior to the issuing of a construction certificate**, detailing the proposed methods of excavation, shoring or pile construction, including details of potential vibration emissions. The report, must demonstrate the suitability of the proposed methods of construction to overcome any potential damage to nearby land/premises.

Any practices or procedures specified in the engineer's report in relation to the avoidance or minimisation of structural damage to nearby premises, must be fully complied with and incorporated into the documentation for the **construction certificate**.

A copy of the engineers report is to be submitted to the Council, if the Council is not the certifying authority.

109. Driven type piles/shoring must not be provided unless a geotechnical engineer's report is submitted to the certifying authority, **prior to the issuing of a construction certificate**, which demonstrates that damage should not occur to any adjoining premises and public place as a result of the works.

Any practices or recommendations specified in the engineer's report in relation to the avoidance or minimisation of structural damage to nearby premises or land must be fully complied with and incorporated into the documentation for the **construction certificate**.

110. A dilapidation report prepared by a *professional engineer* or suitably qualified and experienced building surveyor shall be submitted to the certifying authority **prior to the commencement of demolition, excavation or building works** detailing the current condition and status of all buildings, including ancillary structures (*i.e. including dwellings, residential flat buildings, commercial/industrial building, garages, carports, verandah's, fences, retaining walls, swimming pools and driveways etc.*) located upon all of the premises adjoining the subject site.

The report is to be supported with photographic evidence of the status and condition of the buildings and a copy of the report must also be forwarded to the Council and to the owners of each of the abovestated premises, **prior to the commencement of any works**.

111. The installation of ground or rock anchors underneath any adjoining premises including (a public roadway or public place) must not be carried out without specific written consent of the owners of the affected adjoining premises (including the Council if bounding a public place) and details of compliance must be provided to the certifying authority **prior to the commencement of any excavation or building works.**
112. A Certificate prepared by a *professional engineer* shall be submitted to the certifying authority (*and the Council, if the Council is not the certifying authority*) **prior to issuing an occupation certificate**, which certifies that the building works satisfy the relevant structural design requirements of the Building Code of Australia.

The following conditions are applied to ensure that the development satisfies relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

113. The demolition work, removal, storage, handling and disposal of building products and materials must be carried out in accordance with the relevant requirements of WorkCover NSW, the NSW Department of Environment & Conservation (formerly the Environment Protection Authority) and Randwick City Council policies and conditions, including:
- Occupational Health and Safety Act 2000
 - Occupational Health and Safety (Hazardous Substances) Regulation 2001
 - Occupational Health and Safety (Asbestos Removal Work) Regulation 2001
 - WorkCover NSW Code of Practice for the Safe Removal of Asbestos
 - Australian Standard 2601 (2001) – Demolition of Structures
 - The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 1996.
 - Relevant Department of Environment & Conservation (DEC) / Environment Protection Authority (EPA) and WorkCover NSW Guidelines.
 - Randwick City Council Asbestos Policy (adopted 13 September 2005)

A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.

114. 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 are to 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.

Retaining walls, shoring, or piling must be designed and installed in accordance with appropriate professional standards and the relevant requirements of the Building Code of Australia and Australian Standards. Details of proposed retaining walls, shoring or piling are to be submitted to

and approved by the Principal Certifying Authority for the development prior to commencing such excavations or works.

115. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must:

- preserve and protect the building /s on the adjoining land from damage; and
- if necessary, underpin and support the building and excavation in an approved manner; and
- at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land (including a public road or public place), give notice of the intention to do so to the owner of the adjoining land. Particulars of the excavation are to be provided to the owner of the adjoining land and also the owner of the land where the building is being erected or demolished.

116. Except with the written approval of Council's Manager of Health, Building & Regulatory Services, all building, demolition and associated site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and (except as detailed below) between 8.00am to 5.00pm on Saturdays.

All building, demolition and associated site works are strictly prohibited on Sundays, Public Holidays and also on Saturdays adjacent to a Public Holiday.

In addition, the use of any rock excavation machinery or any mechanical pile drivers or the like is restricted to the hours of 8.00am to 5.00pm (maximum) on Monday to Friday only, to minimise the noise levels during construction and loss of amenity to nearby residents.

117. 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 provisions of the *Protection of the Environment Operations Act 1997* must be satisfied at all times.
118. Noise and vibration from any rock excavation machinery and pile drivers (or the like) must be minimised by using appropriate plant and equipment and silencers and a construction noise and vibration minimisation strategy, prepared by a suitably qualified consultant is to be implemented during the works, to the satisfaction of the Principal Certifying Authority.
119. A report prepared by a suitably qualified and experienced consultant in acoustics/vibration shall be submitted to the Principal Certifying Authority (PCA) and a copy is to be provided to Council **upon commencement of works**, certifying that noise and vibration emissions from the construction of the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, Councils conditions of consent and relevant Standards relating to noise and vibration. In support of the above, it is necessary to submit all relevant readings and calculations made.

Any recommendations and requirements contained in the report are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is

not to recommence until details of compliance are submitted to the PCA and Council.

120. A Registered Surveyor's check survey certificate or *compliance certificate* is to 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*), detailing compliance with Council's approval at the following stage/s of construction:
- a) Prior to construction of the first completed floor/floor slab (prior to pouring of concrete), showing the area of land, building and boundary setbacks and verifying that the building is being construction at the approved levels.
 - b) On completion of the erection of the building showing the area of the land, the position of the building and boundary setbacks and verifying the building has been constructed at the approved levels.
121. 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.
122. Public safety and convenience must be maintained at all times during demolition, excavation and construction works.

The roadway, footpath and nature strip must be maintained in a good, safe condition and free from any obstructions, materials, soils or debris at all times. Any damage caused to the road, footway or nature strip must be repaired immediately, to the satisfaction of Council.

A Road Opening Permit must be obtained from the Council and other relevant Authorities prior to excavating or opening-up the road or footway for services or the like.

123. Building materials, sand, soil, waste materials or construction equipment must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.

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, unless the waste container is located upon the road in accordance with the Roads & Traffic Authority Guidelines and Requirements, and the container is exempt from an approval under Development Control Plan for Exempt & Complying Development and Council's Local Approvals Policy. Applications to place a waste container in a public place can be made to Council's Building Services section.

124. A Construction Site Management Plan is to be developed and implemented prior to the commencement of demolition, excavation or building works. The 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;
- construction noise and vibration management;
- construction traffic management provisions.

The site management measures are to be implemented prior to the commencement of any site works and be maintained throughout the works, to maintain reasonable levels of public health, safety and convenience, to the satisfaction of Council. A copy of the approved Construction Site Management Plan must be maintained on site and be made available to Council officers upon request.

125. 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.
- Revegetation of disturbed areas.

126. During construction stages, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban Stormwater – Soils and Construction, published by the NSW Department of Housing,

Details of the proposed sediment control measures are to be detailed in a *site water management plan* and must be submitted to and approved by the principal certifying authority **prior to the commencement of any site works**. The sediment and erosion control measures must be implemented prior to the commencement of any site works and be maintained throughout construction. A copy of the approved details must be forwarded to the Council and a copy is to be maintained on-site and be made available to Council officers upon request.

Details of proposed sediment and erosion control measures shall include; a site plan; indicating the slope of land, access points & access control measures, location and type of sediment & erosion controls, location of existing vegetation to be retained, location of material stockpiles and storage areas, location of building operations and equipment, methods of sediment control, details of drainage systems and details of existing and proposed vegetation.

Stockpiles of soil, sand, aggregate or other materials must not be located on any footpath, roadway, nature strip, drainage line or any public place and the stockpiles must be protected with adequate sediment control measures.

Building operations such as brick cutting, washing tools or equipment and mixing mortar are not permitted on public footpaths, roadways, nature strips, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system.

A warning sign for soil and water management must be displayed in a prominent position on the building site, visible to both the public and site workers. The sign must be displayed throughout the construction period. Copies of a suitable warning sign are available at Council's Customer Service Centre for a nominal fee.

127. The owner of the subject land shall hold Public Liability Insurance, with a minimum liability of \$20 million and a copy of the Insurance cover is to be provided to Council.
128. Public safety must be maintained at all times and public access to the site and building works, materials and equipment on the site is to be restricted.

A temporary safety fence is to be provided to protect the public, located to the perimeter of the site. Temporary fences are to have a minimum height of 1.8 metres and be constructed of cyclone wire fencing, with geotextile fabric attached to the inside of the fence to provide dust control, or other material approved by Council.

If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or the building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected sufficiently to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises.

The public place adjacent to the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place and any such hoarding, fence or awning is to be removed upon completion of the work.

Temporary fences and hoardings are to be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

The public safety provisions and temporary fences must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

If it is proposed to locate any site fencing, hoardings or amenities upon any part of the footpath, nature strip or any public place, the written consent from Council's Building Services section must be obtained beforehand and detailed plans are to be submitted to Council for consideration, together with payment of the weekly charge in accordance with Council's adopted fees and charges.

129. A 'B Class' overhead type hoarding is required is be provided to protect the public, located adjacent to the development, prior to the commencement of any works on the site which comprise:-

- any works or hoisting of materials over a public footway or adjoining premises, or
- any building or demolition works on buildings which are over 7.5m in height and located within 3.6 metres of the street alignment.

The public safety provisions and temporary fences must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

If it is proposed to locate any hoardings, site fencing or amenities upon a footpath or public place, the written consent from Council's Building Services section must be obtained beforehand and detailed plans are to be submitted to Council for consideration, together with payment of the weekly charge in accordance with Council's adopted fees and charges.

130. A local approval application must be submitted to and be approved by Council's Building Services section prior to commencing any of the following activities upon any part of the footpath, road or 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 in a public place.

The following conditions are applied to maintain reasonable levels of public health, amenity and safety:

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

- Occupational Health and Safety Act 2000
- Occupational Health and Safety (Hazardous Substances) Regulation 2001
- Occupational Health and Safety (Asbestos Removal Work) Regulation 2001
- WorkCover NSW Code of Practice for the Safe Removal of Asbestos
- Australian Standard 2601 (2001) – Demolition of Structures

- The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 1996.
- Relevant Department of Environment & Conservation (DEC) / Environment Protection Authority (EPA) and WorkCover NSW Guidelines.

A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.

132. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures.

The Work Plan must include the following information (as applicable):

- The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor
- Details of hazardous materials, including asbestos
- Method/s of demolition and removal of asbestos
- Measures and processes to be implemented to ensure the health & safety of workers and community
- Measures to be implemented to minimise any airborne asbestos and dust
- Methods and location of disposal of any asbestos or other hazardous materials
- Other relevant details, measures and requirements to be implemented as identified in the Asbestos Survey
- Date the demolition and removal of asbestos will commence

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

Note *it is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.*

133. A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 200 m² 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.
134. On demolition sites involving the removal of asbestos, a professionally manufactured 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. The sign shall measure not less than 400mm x 300mm and the sign is to be installed prior to demolition work commencing and is to remain in place until such time as all asbestos has been safely removed from the site.
135. 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 1996.

Asbestos waste must be disposed of at an approved waste disposal depot (refer to the DEC or Waste Service NSW for details of sites). Copies of all receipts detailing method and location of disposal must be maintained on site and be provided to Council officers upon request, as evidence of correct disposal.

136. A Certificate or Statement, prepared by a suitably qualified person (ie an occupational hygienist, licensed asbestos removal contractor, building consultant, architect or experienced licensed building contractor), must be provided to Council upon completion of the works (prior to an Occupation Certificate being issued), which confirms that the relevant requirements contained in the Asbestos Survey and conditions of consent, in relation to the safe removal and disposal of asbestos, have been satisfied.

The following conditions are applied to provide access and facilities for people with disabilities:

137. Access and toilet facilities for people with a disability are to be provided, in accordance with Parts D3 & F2 of the Building Code of Australia and AS1428.1, which must be available at all times the building is occupied and details are to be included in the **construction certificate**.

ADVISORY MATTERS:

1. The applicant is advised that the Construction Certificate plans and specification must comply with the provisions of the Building Code of Australia (BCA).

Details of compliance with the relevant provisions of the Building Code of Australia and conditions of development consent are to be provided in the plans and specifications for the construction certificate.

The applicant and developer is advised to ensure that the development is not inconsistent with Council's consent and if necessary consult with Council's Building Certification Services or your accredited certifier prior to submitting your construction certificate application to enable these matters to be addressed accordingly.

2. The applicant is advised that the Construction Certificate plans and specification must comply with the provisions of the Building Code of Australia (BCA).

In this regard, the development consent plans do not show compliance with the deemed-to-satisfy provisions of the BCA, including:

a)	Part B1	-	Structural provisions
b)	Part C1	-	Fire resistance and stability
c)	Part C3	-	Protection of openings
d)	Clause D3.5	-	Car parking for people with disabilities
e)	Part E1	-	Fire fighting equipment
f)	Part E2	-	Smoke Hazard Management
g)	Part E4	-	Emergency lighting, exit signs & warning systems
h)	Part F1	-	Damp and weatherproofing
i)	Part F4	-	Light and ventilation
j)	Part F5	-	Sound Transmission and Insulation
k)	Section J	-	Energy efficiency

Details of compliance with the relevant provisions of the Building Code of Australia and conditions of development consent are to be provided in the plans and specifications for the construction certificate.

You are advised to ensure that the development is not inconsistent with Council's consent and if necessary consult with Council's Building Certification Services or your accredited certifier prior to submitting your construction certificate application to enable these matters to be addressed accordingly.

3. The applicant/owner is advised that this approval does not guarantee compliance with the provisions of the Disability Discrimination Act 1992 and the applicant should therefore consider their liability under the Act. In this regard, the applicant is advised that compliance with the requirements of the Building Code of Australia and Australian Standard 1428.1 - Design for Access and Mobility does not necessarily satisfy the objectives of the Disability Discrimination Act 1992.

The applicant/owner is requested to give consideration to providing access and facilities for people with disabilities in accordance with Australian Standard 1428 Parts 1, 2, 3 and 4 - Design for Access and Mobility, which may be necessary to satisfy the objectives of the Disability Discrimination Act 1992.

4. 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.

ATTACHMENT / S:

Development Application Report dated 2 October, 2007.

.....
SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
DAVID ONGKILI
**COORDINATOR MAJOR
ASSESSMENT**

Development Application Report



REPORT BY: DIRECTOR, CITY PLANNING

DATE:	2 October, 2007	FILE NO:	DA/185/2007 & PROP039825 & 842

PROPOSAL: Refurbishment of 4 existing shops and construction of new multi-unit housing development above and in a new building to the rear containing a total of 3 x 1 bedroom, 8 x 2 bedroom and 1 x 3 bedroom dwellings with basement carparking, plus strata subdivision.

PROPERTY: 10-16A Bream Street, Coogee

WARD: North Ward

APPLICANT: David Roberts Architects

OWNER: Nicola & Angela Mandic



1. EXECUTIVE SUMMARY

The application is referred to the Health, Building and Planning Committee as the proposed development is valued at \$2,645,500.

The subject application is for the refurbishment of 4 existing shops and construction of new multi-unit housing development above and in a new building to the rear containing a total of 3 x 1 bedroom, 8 x 2 bedroom and 1 x 3 bedroom dwellings with basement parking, plus strata subdivision.

The applicant has lodged the subject application on the basis of existing use rights in that the existing shops on the subject land have been in existence prior to the coming into force of the Cumberland Planning Scheme in early 1950, and has operated for groundfloor shop and first floor residential purposes prior to the coming into force of RLEP 1998, and that this use has continued to operate since the original approval. Accordingly, the applicant contends that the relevant controls of the Randwick Local Environmental Plan 1998 do not apply to the proposed development.

It is considered that the applicant has satisfactorily established existing use rights such that the proposed development can be granted consent in the Residential 2C zone. In this regard, Council has sought legal advice to determine the nature and extent of existing use rights over the site given the nature of the proposed development. This advice was obtained in August 2007 and essentially advised that, while the part of the development proposed for multi-unit housing is permissible within the existing Residential 2C zone without the benefit of existing use rights, the applicant is entitled to claim the benefit of the existing use rights to the whole of the proposed development (that is in respect of both the proposed shops and the multi-unit housing). Accordingly, to the extent that the Randwick LEP provisions derogate from the incorporated provisions under the EP&A Act, the development application for the whole of the proposed development must be considered on its merits with the provisions of the Randwick LEP 1998 to be used as a guide to be applied in assessing the proposed development.

The proposal has a maximum FSR of 0.96:1 which varies from the maximum FSR control of 0.9:1 under the Randwick LEP 1998. The proposal also varies from the side setback requirements of the DCP – Multi-unit Housing in localise parts of the building, and falls short of 4 retail carparking spaces under the DCP – Parking. Notwithstanding the departures from these controls, a merit based assessment has been made of the proposal, using the controls as a guide to the type of development envisaged on the site and its 'reasonableness'. The development overall is considered to be consistent with the character of existing development and performs adequately with regard to streetscape, bulk and scale, safety and security, solar access and privacy to adjoining properties, and traffic and parking impacts to surrounding properties, subject to appropriate conditions.

The recommendation is for deferred commencement approval of the application subject to conditions.

2. THE PROPOSAL

The proposal is for the refurbishment of 4 existing shops and construction of new multi-unit housing development above and in a new building to the rear containing a total of 3 x 1 bedroom, 8 x 2 bedroom and 1 x 3 bedroom dwellings with basement parking, plus strata subdivision.

The proposed development will contain the following uses:

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ITEM 8.1

Building 1 (a 3 storey building on the northern part of the site fronting Bream Street)

4 x 2 Bedroom dwellings on the first floor

4 x existing shops on groundfloor to be refurbished

Total dwellings – 4 units

Building 2 (a 3 storey building on southern part of the site fronting Melody Lane)

3 x 1 Bedroom

4 x 2 Bedroom

1 x 3 Bedroom

Total dwellings – 8 units

The two buildings will have a common basement level containing 18 carspaces, a car washing bay bicycle storage, loading bay and storage spaces and garbage bin areas. A central planting area between the two buildings will be provided above the basement carpark.

Access to the basement carpark is provided via a rear driveway from Melody Lane. Pedestrian access is proposed from Bream Street with the main pedestrian access extending along the eastern side boundary to the rear.

3. THE SUBJECT SITE AND SURROUNDING AREA

The subject site is located on the southern side of Bream Street, between Carrington Road and Melody Street. The subject site is regular in shape with a width of approximately 21.35m and a depth of approximately 50.29m and a site area of 1073 sqm.

Existing on the site are basically two two-storey buildings each containing a pair of ground floor shops currently operating as follows:

10 Bream Street – a restaurant

12 Bream Street – a newsagency

14 Bream Street – a supermarket

16 Bream Street – a swimming pool shop

The existing buildings also have an upper level of residential dwellings above the shops.

Development in the locality is predominantly comprised of a variety of medium to high density residential uses as described below.

To the north:

Across Bream Street to the north are single and two storey dwelling houses.

To the east:

A two-storey brick and tiled roof residential flat building at No. 18 Bream Street and a single storey dwelling house at No. 20 Bream Street.

To the south :

Across Melody Lane to the south is an open space area comprising the Alby Smith Memorial Playground which extends to the northern side of Dolphin Street.

To the west :

Directly adjacent to the west is a two-storey shop building containing a doctors surgery forming part of the row of shops in the existing group.

4. SITE HISTORY

Council's records indicate that the following relevant development/building applications have previously been lodged for the subject site:-

10 Bream Street

- BA/778/1972 Store Room - Approved 15 August 1972
- DA 114/ Change of use from a butcher shop to a gourmet delicatessen/sandwich shop - Approved - 17 April 1997
- BA/387/1997, Shop fit out - Approved 24 April 1997
- DA/479/2000, Change of use from a delicatessen to a cafe, extend trading hours and outdoor seating. Approved 27 September 2000
- DA/434/2002, Extension of hours of operation utilisation of the rear courtyard increase existing seating area and new bi folding doors to shopfront. Approved - 2 September 2002

Apart from the above history contained in Council's records, the applicant has provided lease details contained in a Land and Property Information (LPI) Title Search indicating that the existing shops within the subject site have been leased continuously to a series of business tenants since details of leases were first recorded in 1989. The LPI also indicates the specific lease arrangements of the current tenants of shops Nos. 10, 12, 14 and 16 Bream Street.

A prelodgement meeting was held on 16 December 2005 (PL 62/2005) to discuss development concepts for the proposed development.

5. COMMUNITY CONSULTATION

The proposal was notified and advertised in accordance with the DCP - Public Notification of Development Proposals and Council Plans. In response to the two-week notification period ending on 18 April 2007, submissions were received from the following:

M. & A. Wilkinson, 20 Bream Street, Coogee
C. O'Connor, 18A Bream Street, Coogee
M. Empson, 5 Bream Street, Coogee
Mr & Mrs C. Macris, 11 Bream Street, Coogee
S. & D. Bassin, 52 Dolphin Street, Coogee
Yulong He, 14 Bream Street, Coogee
P Lofts, 6/18 Bream Street, Coogee
M. Holgate, 3 Bream Street, Coogee
G. Desousa, 9 Bream Street, Coogee
Handiong Xiong, 12 Bream Street, Coogee
P. Woodbury, 2/18 Bream Street, Coogee (on behalf Owners Corporation SP 18497)

5.1 Objections

The following issues were raised in the submissions and are addressed by planning comments below and where relevant in the Environmental Assessment Section of the report (Section 10):

☐ **Loss of Sunlight to rear yards**

Comment: This objection is addressed in Section 10.3.2.2 below.

☐ **Loss of Privacy to rear yards**

Comment : This objection is addressed in Section 10.3.2.2 below.

☐ **Noise from use of the shops because of use of bi-fold windows**

Comment : A condition will be applied requiring the deletion and replacement of the bi-fold windows in the shop fronts with appropriate enclosing glazed element.

☐ **Noise, illegal parking, loss of on-street carparking, access and bus stop, and unattractive streetscape, during construction**

Comment : Appropriate conditions requiring a construction management plan (including dust control measures and hours of demolition and building works) and appropriate site fencing will be applied to ensure the amenity of the neighbourhood during construction.

☐ **Proposal exceeds allowable floorspace for business premises within a residential zone**

Comment: The subject site enjoys existing use rights so that the provisions of Clause 35 - Business premises in residential zones (limiting the area of business premises to a maximum 50 sqm) in the Randwick LEP 1998 do not apply as the LEP provisions derogate from the incorporated provisions and are only to be used as a guide in assessing the proposal. Applying the provisions of the clause as a guide, indicates that there is no merit in restricting the area/size of the proposed shops because the shops as currently exist, and proposed to be retained, will be commensurate with the provision of small scale/local neighbourhood businesses in the locality.

☐ **Excessive scale and size of proposed development**

Comment: The area surrounding the subject site is predominantly characterised by medium to high density development such that the proposed development will not be out of scale. Specifically, as noted in Section 10.3.2.1 below, Building 1 of the proposed development will be lower in height than the existing adjoining residential flat building at No. 18 Bream Street (which is 2 storeys with a high pitched roof) such that the proposal will not be visually overbearing or overwhelming in the context. The proposal will not give rise to any adverse impact on adjoining properties in terms of overshadowing, loss of privacy and views, and overbearing building bulk because of well-considered design, planning and layout of the proposed development (see relevant assessment sections below).

☐ **Exacerbates shortage of on-street carparking**

Comment: Section 10.2.2 below indicates that the shortfall in carparking comprises 4 retail carspaces for the proposed shops whereas the parking requirements for the residential component will be fully met on-site. The absence of any carparking for the shops is considered reasonable for the following reasons:

1. The proposal seeks only to refurbish the existing shops. There is no on-site carparking available for the existing shops which are currently well served by an existing bus route to and from the Sydney CBD and a bus stop in front of the shops.
2. The proposed refurbishment of the shops will result in a decrease in the retail gross floor area due to the provision of an external walkway to the rear residential Building 2. As such, given the existing absence of carparking for the shops, there will be no increase in carparking demand arising from the shortfall in the proposal.

☐ **Increased vehicular and pedestrian traffic will exacerbate existing intersection movements and compromise safety in use of the adjoining park on Melody Lane**

Comment: As discussed in Section 10.3.2.3 below, traffic generation from the proposal will be low with traffic generated at an average of 6 vehicles per hour in peak period. Accordingly, there will be adequate capacity in the surrounding road network to cater for the traffic generated by the proposed development to allow for adequate and safe pedestrian and vehicular environments. Additionally, splayed corners at the driveway into the basement carpark on Melody Lane will be required by way of condition.

☐ **No restrictions on operating hours of proposed shops**

Comment: Restrictions on the operating hours of shops can be applied when separate DAs are lodged for the future individual uses of the refurbished shops. A condition will be applied requiring DAs to be lodged for all future individual uses of the shop premises.

☐ **Disruption to existing shop lease and business**

Comment: Existing shop tenant's objections to the disruption to their business as a result of the shop refurbishment and the conditions of their lease is a matter between the tenants and the property owner.

6. TECHNICAL OFFICERS COMMENTS

The application has been referred to the relevant technical officers, including where necessary external bodies and the following comments have been provided: -

6.1 Development Engineering Comments

Council's Development Engineer advises as follows:

An application has been received for the refurbishment of four existing shops at the site and the construction of a residential development consisting of 12 units together with the associated strata subdivision.

This report is based on the following plans and documentation:

- ☐ *Survey plan 20324 by John R. Holt Surveyors dated 19 December 2005;*
- ☐ *Architectural plan by David Roberts Architects dated 12 February 2007;*
- ☐ *Flood study by Pyramid Consulting Engineers dated February 2007;*
- ☐ *Stormwater plans by Pyramid Consulting Engineers dated 7 February 2007.*
- ☐ *Geotechnical Report prepared by Jeffery and Katauskas Pty Ltd dated 29 May 2007.*

Landscape Comments

*On Council's Bream Street nature strip, to the east of the site, there is one *Lophostemon confertus* (Brush Box) of approximately 9 metres in height which forms part of a significant and highly desirable avenue planting of this species in this street. Multiple trunks exist from a height of about 2 metres above ground level, with a network of surface roots also noted. Several crossing/rubbing branches exist throughout its canopy, with the trunk displaying a slight lean to the north. Regardless, this tree would remain unaffected given that it is sited a reasonable distance away from any works to be conducted within the site, with protection measures likely not required.*

*In the rear yard, along the eastern boundary, beyond the southeast corner of the existing structure, there is one *Schefflera actinophylla* (Umbrella Tree) and one *Morus alba* (Mulberry) which will both need to be removed as they are considered environmental weeds in the Randwick LGA.*

There is also one deciduous tree (species undetermined due to a complete lack of foliage) of around 9 metres in height which cannot be retained in conjunction with the proposed development. A redesign to accommodate its retention is not warranted as it is not considered a significant specimen, and suitably sized replacement species will be provided to compensate for its loss.

Immediately to the west of this group, there is one tree (species undetermined) of approximately 8 metres in height which appears in reasonable condition and is covered by Council's Tree Preservation Order. Its location means that it will be in direct conflict with the proposed works, but as suitable replacement planting can be provided between the rear of existing commercial premises and the residential component of the proposed development, approval would be granted for its removal.

*Further to the south, there is one *Citrus* tree of 4m x 4m which is considered insignificant and should be removed also.*

*Still in the rear yard, about halfway across the site, there is one *Pinus patula* (Pine Tree) of approximately 8 metres in height which is covered by Council's Tree Preservation Order (TPO). While providing established canopy cover, its location also means that it would be in direct conflict with the proposed works, with an extensive redesign required should retention be sought, and would severely inhibit the ability to reasonably develop the property.*

Further, given the inability to establish more decorative landscaping beneath or around its canopy due to excessive needle drop, permission would be granted for its removal subject to more desirable and appropriate plantings which will achieve similar dimensions at maturity being provided in more appropriate locations elsewhere within the site.

There is one 7 metre tall deciduous tree in the southeast corner of the site which, while covered by the provisions of Council's TPO, would likely be heavily impacted during the course of demolition/construction works, and therefore, Council would require that it be removed in lieu of new plantings which will provide partial screening between this site and the adjoining public reserve to the south for privacy and amenity purposes.

Conditions have been included regarding planting of replacement specimens which can attain a size affording a reasonable degree of screening and privacy between this site and adjoining properties. The replacement planting will take place around the perimeter of the site, within those areas nominated as 'deep soil'.

Within the rear yard of the adjoining property to the west, 8 Bream Street, against the common boundary, there is one mature and established Persea americanna (Avocado Tree) of approximately 10 metres in height which is covered by Council's TPO and is considered a good example of the species, displaying sound branching structure and symmetrical form.

As it is located on a neighbouring property, the applicant has a responsibility to ensure it remains unaffected, with all plans needing to show that existing soil levels (at minimum beneath the extent of its dripline) will be maintained, with an exclusion zone for any excavations to also apply for a similar distance.

In order to avoid the need for pruning of this tree, which Council's considers important given its attractive dense, canopy, all plans will be required to plot the exact location of this tree (trunk & dripline), together with existing and proposed spot levels as well as distances between its trunk and any proposed excavation/construction works.

Protection measures will need to be implemented, and should any works be proposed within the setbacks specified above, the applicant will be required to submit a detailed Arborist Report (minimum qualification Certificate 4 in Arboriculture) which includes site investigations such as root mapping and relevant recommendations to ensure its preservation during the course of the proposed works.

Conditions related to submission of a landscape plan have been included within this report.

Flooding Comments

A flood study has been submitted as requested in the prelodgement report for this site. The flood study indicates a maximum 1 in 100 year ARI flood level of 16.69m AHD in the vicinity of this site.

To minimise the possibility of localised floodwater entering the proposed development, all new habitable/storage areas (including the garbage room and any portions of the electrical and utilities cupboards that may be adversely affected by floodwater) shall be a minimum of 300mm above the calculated 1 in 100 year flood level or suitably protected.

The proposed internal driveway (and any other openings into the basement carpark from Dolphin Lane) must be designed with a high point at least 300mm above the determined 1 in 100 year flood level or suitably protected.

Further, the three car spaces proposed at the rear of the site adjacent to the entry to the basement carpark shall be located a minimum of 300mm above the determined 1 in 100 year flood level or suitably protected.

All footings shall be suitably designed to ensure that they will not be adversely affected by stormwater/floodwater.

Civil Works Comments

The applicant must meet the full cost for Council or a Council approved contractor to undertake civil works along both the Bream Street and Dolphin Lane site frontages as required to facilitate pedestrian and vehicular access to the site. The Council's Coordinator - Assets has advised that these works may include, but not necessarily be limited to, the following:

Bream Street frontage:

- a) Reconstruction of any damaged sections of footpath along the full site frontage;*
- b) Reconstruction of any damaged sections of kerb and gutter along the full site frontage (including associated roadworks).*

Dolphin Lane frontage:

- c) Construction of asphalt roadway between Carrington Road and the eastern property boundary with one way cross fall to the south;*
- d) Construction of concrete layback (and crossing where appropriate):*
 - i) Opposite the proposed vehicular entrance to the site;*
 - ii) Opposite the existing vehicular entry point to 8 Bream Street; AND*
 - iii) At the end of the new asphalt laneway (to facilitate vehicular access into the park by service vehicles when required).*
- e) Construction of new concrete kerb and gutter on both the northern and southern sides of the laneway between Carrington Road and the eastern property boundary (except in the areas of layback as defined above);*
- f) Construction of a new kerb inlet pit in the lowest point of the reconstructed laneway and connection to Council's underground drainage system in Dolphin Street via a new 375mm diameter RRRCP pipeline. The new pit and the pipe junction into Council's existing underground drainage system shall be designed and constructed to the satisfaction of Council's Assets Drainage Engineer.*

Drainage Comments

All stormwater run-off naturally draining to the site must be collected and discharged through this property's stormwater system. Such drainage must, if necessary, be constructed prior to the commencement of building work.

All site stormwater must be discharged (by gravity) to either:

- a) The underground drainage system in Dolphin Street, via the new drainage system to be constructed in Dolphin Lane; OR*
- b) A suitably sized infiltration system (subject to geotechnical investigation confirming that the ground conditions are suitable for an infiltration system).*

Notes: (a) Discharge to the underground drainage system in Dolphin Street will necessitate the applicant meeting all costs associated

with constructing a new kerb inlet pit (in general accordance with Council's standard drawing SD7a) in the lowest point of Dolphin Lane and extending Council's underground drainage system up from Dolphin Street to connect into the new kerb inlet pit. Given that the low point pit will be located on the southern side of Dolphin Lane, stormwater discharge from the site may be taken to the kerb and gutter on the northern side of Dolphin Lane and permitted to flow across the lane into the new kerb inlet pit.

- (b) With the exception of the site discharge pipe, all new pipelines constructed within council's reserve shall be minimum 375 mm diameter, spigot and socket rubber ringed jointed, steel reinforced concrete pipeline (RRRCP). Prior to backfilling, all pipelines in council's reserve shall be inspected and approved by the Hydraulic Engineer certifying the works and Council.*

Onsite detention requirements

Should stormwater be discharged to Council's underground drainage system, on-site detention must be provided to ensure that the maximum discharge from the above site is not to exceed that which would occur during a 1 in 10 year storm of 1 hour duration for the existing site conditions. All other stormwater run-off from the above site for all storms up to the 1 in 20 year storm is to be retained on the site for gradual release to the kerb and gutter or drainage system as required by the Council. Provision is to be made for satisfactory overland flow should a storm in excess of the above parameters occur.

Should no formal overland escape route be provided for storms greater than the design storm, the on-site detention system shall be sized for the 1 in 100 year storm event.

General drainage design requirements

The maximum depth of ponding in any above ground detention areas (and/or infiltration systems with above ground storage) shall be as follows:

- a) 150mm in uncovered parking areas (with an isolated maximum depth of 200mm permissible at the low point pit within the detention area.*
- b) 300mm in landscaped areas (where child proof fencing is not provided around the outside of the detention area and sides slopes are steeper than 1 in 10)*
- c) 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10.*
- d) 1200mm in landscaped areas where a childproof fence is provided around the outside of the detention area*

Notes:

- ☐ *It is noted that above ground storage will not be permitted in any area which may be used for storage of goods.*
- ☐ *Mulch/bark must not be used in onsite detention areas*

The floor level of all habitable and storage areas adjacent to the detention area (and/or infiltration systems with above ground storage) must be a minimum of 300mm above the maximum water level for the design storm or alternately a permanent 300mm high water proof barrier is to be constructed.

Road Act Approval Comments

The written approval of Council is required to be obtained in relation to all drainage and infrastructure works which are located externally from the site within the road reserve/public place, in accordance with the requirements of the Roads Act 1993.

Detailed plans and specifications of the proposed works are to be submitted to and approved by the Director of City Services prior to commencing any works within the road reserve/public place.

All works within the road reserve/public place must be carried out to the satisfaction of Council and certification from a professional engineer is to be provided to Council upon completion of the works.

Relevant Council Assessment and Inspection fees, as specified in Council's adopted Pricing Policy, are required to be paid to Council prior to commencement of the works.

The Planning Officer is advised that the submitted drainage plans should not be approved in conjunction with the DA, rather, the Development Engineer has included a number of conditions in this memo that relate to drainage design requirements. The applicant is required to submit detailed drainage plans to the certifying authority for approval prior to the issuing of a construction certificate.

Geotechnical Comments

The applicant was previously requested to carry out sufficient Geotechnical investigation to determine if the proposed development will have any affect on, or be affected by groundwater. A geotechnical report was received and conditions arising from the finding of the geotechnical report have been included within this report.

Traffic Comments

All new walls adjacent to vehicular crossings must be lowered to a height of 600mm above the internal driveway level for a distance of 1.50m within the site or splayed 1.5 metre by 1.5 metre to provide satisfactory sight lines.

Parking provisions

On-site parking shall be provided in accordance with Council's DCP - Parking. The Planning Officer has advised that the proposed parking provision complies with this requirement. Loading / unloading operations and parking for the refurbished shops will continue to take place in the current form, (i.e. onstreet).

It is noted that Council's DCP states that where an application consists of an extension/modification to an existing development, Council generally only requires that additional parking be provided to cater for additional demands arising from increases in floor space or changes in use.

Service Authority Comments

A public utility impact assessment must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.

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

Any electricity substation required for the site as a consequence of this development shall be located within the site and shall be screened from view. The proposed location and elevation shall be shown on all detailed landscape drawings and

specifications. The applicant must liaise with Energy Australia prior to lodging a development application to determine whether or not an electricity substation is required for the development.

At the Health, Building and Planning Committee meeting on 8 November 2005, it was resolved on the motion of Councillors Nash and Belelli that:

- (a) the applicants of development applications be required to meet all costs associated with replacing overhead wires with underground cables in the vicinity of the development site when the cost of works on the site exceeds \$2 million;
- (b) the applicants of development applications be required to meet all costs associated with replacing overhead wires with Aerial Bundled Cables in the vicinity of the development site, when the cost of works on the site exceeds \$1 million up to \$2 million; and
- (c) the Director, City Planning investigate the feasibility of funding the undergrounding of existing overhead cables for new development under the new options provided for in the Environmental Planning & Assessment Act (Developer Contributions) Act 2005.

Given that the costs of the proposed works are in excess of \$2million the applicant will be required to meet the cost for option (a) above.

Should the application be approved the following conditions shall apply:"

6.2 Building Services Comments

The Manager of Environmental Health and Building Services advises as follows:

"BCA Building Classification

Class - 5/6 (Offices/Retail/Shops)
 Class - 2 (Residential units)
 Class - 7a (Carpark)

Background

The existing buildings on site are post war brick shop and dwellings bounded by buildings of a similar nature and residences.

Key Issues

Building Code of Australia (BCA):

Full details of compliance with BCA and fire safety provisions are not included in the DA documentation and therefore further detailed information would need to be incorporated in the documentation for a construction certificate.

Site Management:

Standard conditions are proposed to be included in the consent to address construction site management issues, such as the location of stock piled material or the storage and disposal of excavated materials, sediment and erosion control, public safety and perimeter safety fencing.

Access for people with a disability:

The proposal appears to demonstrate compliance with the BCA requirements and Disability Discrimination Act (DDA) objectives, in relation to access and facilities for people with a disability.

Access for people with a disability is required to be provided to the ground floor shops and, sanitary facilities for people with a disability are also required to be provided to the development, in accordance with the provisions of the BCA.

Standard conditions should be included confirm these requirements.

The applicant or other person having the benefit of the consent is also advised to fulfil their obligations under the DDA.

RECOMMENDATION:

Should the approval be granted to the application, the following conditions should be included in the development consent."

6.3 Environmental Health Comments

The Manager of Environmental Health and Building Services advises that no objections are raised to the proposal in relation to environmental health issues subject to conditions.

7. MASTER PLANNING REQUIREMENTS

Clause 40A of Randwick LEP requires the preparation and adoption of a master plan for the redevelopment of sites having an area in excess of 4,000 square metres and which must be adopted and in force prior to the grant of development consent.

The subject site, being 1073 sqm in area, is not subject to the provisions of Clause 40A.

8. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The Development Application has been assessed in accordance with the provisions of the following relevant planning documents:

8.1 Randwick Local Environmental Plan 1998

The subject site is zoned Residential 2C under Randwick Local Environmental Plan 1998 (LEP 1998). The applicant's solicitor, CW McEwen SC, has advised that the DA has been lodged on the basis that the subject site enjoys existing use rights "*because existing shops stand upon the subject land and have been in existence prior to the coming into force of the Cumberland Planning Scheme in early 1950. At that time ... the subject land was zoned "Living Area" in which development for the purposes of shops with dwellings above was permissible ... such use became a prohibited use with the coming into force of the Randwick Planning Scheme Ordinance on 28 April 1978 (and) ... that such use has been prohibited since that time and that the current use has continued throughout that period, with the result that the site has the benefit of existing use rights pursuant to s106 of the Environmental Planning and Assessment Act.*" The validity of the existing use rights claim is addressed further in Section 10.1.1 below.

The following table indicates the relationship of the proposal with the statutory controls applicable in a Residential 2C zone:

Residential			
Clause No.	Requirement	Provided	Compliance
31(2) - Landscaped Area	50% of site area (or 536.5m ²)	50.8% or 544.86 m ²	Yes
31(3) - Landscaped Area over Basement	Less than 50% of landscape area requirement (268.25m ²)	47.5% or 255m ²	Yes
32 - FSR	0.9:1 (965.7m ²)	0.96:1 (1035.7 m ²)	No
33(1) - Building Height	Max 12m	Building 1 - Max 10.2m Building 2 - Max 10.6m	Yes
33(3) - External Wall Height	Max 10m	Building 1 - Max 9.2m Building 2 - Max 10m	Yes
Other Clauses	Effect	Applies	Comment
21	Strata Subdivision	Yes	Draft Strata plans submitted for assessment.
43	Heritage Item or Conservation Area	No	NA
46	Vicinity of Heritage Item	No	NA

The following relevant clauses also apply to the proposal (and are addressed in detail in Section 10.1 below):

Clause 40 Excavation and filling of land
 Clause 42B Contaminated Land

8.2 Relevant State Environmental Planning Policies

State Environmental Planning Policies that are relevant to the proposal are :

- ☐ State Environmental Planning Policy No. 55 – Remediation of Contaminated Land
- ☐ State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

The application of these policies to the proposal is addressed in Section 10.1 below.

9. POLICY CONTROLS

The following Development Control Plans are applicable in the subject site:

9.1 Development Control Plan – Multi-unit housing

The table below assesses the proposal against the Preferred Solutions of the DCP – Multi-unit housing, and where variations occur, assessment is made against the relevant Objectives and Performance Requirements.

Performance Requirement	Preferred Solution	Compliance <i>(Whether proposal meets Performance Requirements or Preferred Solutions.)</i>
Site Planning		
P1 Development applications accompanied by Site Analysis Plan.		Site analysis plan provided
P2 Development sites have appropriate areas/dimensions to allow for satisfactory siting of buildings.	S2 Sites are of regular shape with frontages of at least 20m.	Frontage of 21.3m to both Bream Street and Melody Lane.
P3 Development on corner sites responds to both street frontages.		Not applicable
Height		
P1 Heights of walls, their location and orientation do not cause substantial adverse impacts on streetscape or adjoining properties.		Wall height complies with RLEP control. Location and orientation of buildings do not cause substantial adverse impacts on streetscape or adjoining properties.
P2 Variations in massing and height create visual interest, distribute the bulk of the building and minimise amenity impacts on the streetscape and adjoining properties.		Building bulk is distributed over two proposed buildings with adequate visual interest in terms of articulation and façade treatment to minimise amenity impacts on the streetscape and adjoining properties.
Building Setbacks		
P1 Front boundary setbacks The front setback consistent with streetscape /adjoining dwelling.		Zero front setback of existing shops to be retained consistent with adjoining shops at No. 6 and No. 8 Bream Street.

Performance Requirement	Preferred Solution	Compliance <i>(Whether proposal meets Performance Requirements or Preferred Solutions.)</i>
P2 Side boundary setbacks Side setbacks to ensure: ☐ Solar access maintained and overshadowing minimised. ☐ Privacy between adjoining dwellings and open spaces. ☐ Landscaping and private open space provided. ☐ Streetscape amenity is maintained.	- o S2 Zone 2C - o No part closer than 3.5 metres. - o Minimum average setback 5 metres. - o Maximum length of wall without articulation is 10 metres. - o Minimum length of any step is 3 metres.	East <u>Building 1</u> - o No – zero setback at ground floor retained (closest part) - o Yes - 5.0m (min) average - o Yes - 10m (max) length of wall - o Yes - 3m (min) step <u>Building 2</u> - o No – 1.5m (closest part localised at entry) - o Yes - 5.0m (min) average - o Yes – 9.5m (max) length of wall - o Yes - 2m (min) step West <u>Building 1</u> - o No – zero setback at ground floor retained (closest part) - o Yes - 5.0m (min) average - o Yes - 10m (max) length of wall - o Yes - 3m (min) step <u>Building 2</u> - o Yes – 3.5m (closest part localised at entry) - o Yes - 5.0m (min) average - o Yes – 9.5m (max) length of wall - o Yes - 2m (min) step

Performance Requirement	Preferred Solution	Compliance <i>(Whether proposal meets Performance Requirements or Preferred Solutions.)</i>
P3 Rear Boundary Setbacks Ensure that: ☐ Solar access and overshadowing are minimised. ☐ Privacy between neighbouring dwellings and their open spaces provided. ☐ Landscaping, communal recreation facilities and outdoor clothes drying spaces provided. ☐ Building built across site.	S3 Zone 2C Minimum average setback 8 metres. No part closer than 6 metres. Maximum length of wall without articulation 10 metres.	South Building 2 - o No - 6.0m (closest part) (see Section 10.3.1) - o Yes - 8.0m (min) average (see Section 10.3.1) - o Yes - 7m (max) length of wall
P4 General Eaves, window hoods and other sun-shading or weather protection pose no significant adverse impact on adjoining properties.	S4 No device may encroach more than 25% of the Preferred Solution.	No adverse impacts on adjoining properties arising from eaves, window hoods and other sun-shading or weather protection
Density		
P1 Building bulk compatible with surrounding built forms and minimises impact on nearby buildings, open spaces and the streetscape.		As discussed in Section below, bulk and scale of the building when viewed from adjoining public spaces and private properties is visually compatible with surrounding buildings.
Fences		
P1 Fences to be/have: ☐ consistent with streetscape; ☐ Entrances highlighted; and ☐ Planting used to soften and provide privacy.	S1 Solid front fences no higher than 1.2 metres. May increase to 1.8 metres when 50 % transparent.	N.A. - No solid fence to Bream Street.
Landscaping and Private Open Space		

Performance Requirement	Preferred Solution	Compliance <i>(Whether proposal meets Performance Requirements or Preferred Solutions.)</i>
P1 Landscaped Areas Areas are sufficient size allow recreational activities and substantial vegetation.	S1 Minimum for landscaped area 2 metres.	Yes
P2 Areas around multi-unit buildings are communal open space and not divided up for allocation to individual units.		Yes –all areas around multi-unit buildings are communal open space and not divided up for allocation to individual units.
P3 Private Open Space Provides privacy for its users, is readily accessible, and provides opportunities for outdoor recreation / living.		Yes – private open space in the form of courtyard terraces for ground floor dwelling units in Building 2 fronting central courtyard.
P4 Is located in front of the building only where setback and fence design sympathetic.		N.A. as no dwelling units have setback and fence design to street front.
P5 Townhouses Each dwelling is provided with an area of useable private open space or courtyard area, at ground or podium level.	S5 Minimum area of 25m ² and a minimum dimension of 3 x 4 metres.	N.A.
P6 Flats and apartments Each dwelling has direct access to an area of private open space.	S6 Minimum of 8 m ² and minimum dimension of 2 metres.	Ground floor apartment will have front courtyards while apartments above will be provided with balconies.
Privacy		
P1 Visual Privacy Windows and balconies of main living areas are located to avoid overlooking windows in adjoining dwellings and private open space.	S1 Offset, angle or screen windows with less than 10m separation. Sill level of 1.6 metres above floor level.	Yes (see Section 10.4.2.2 below)
P2 Private open space design and location ensure privacy.		Yes

Performance Requirement	Preferred Solution	Compliance <i>(Whether proposal meets Performance Requirements or Preferred Solutions.)</i>
P3 Acoustic Privacy Building layout and design minimises noise transmission of noise. Quiet areas separate noise-generating activities.		Yes
P4 Building construction transmission of noise.	S4 Wall / floor insulation & sound consistent with Building Code of Australia (BCA).	Required to comply with BCA
View Sharing		
P1 Design and location of buildings considers surroundings for assessing impact on views.		No view affectation
P2 Development minimises effects on views and shows how view loss is minimised.		As above
P3 Buildings are aligned to maximise view corridors between buildings.		N.A.
Solar Access and Energy Efficiency		
P1 Solar Access to Neighbouring Properties Design, orientation, siting and landscaping minimises loss of solar access.		Yes (see Section 10.3.2.2 below)
P1.1 Solar access to existing solar collectors maintained between 9am and 3pm.		N. A.
P1.2 Living areas of neighbours' dwellings receive 3 hours of sunlight over part of their surface throughout the year. If less currently available, the amount is not reduced.		Yes (see Section 10.3.2.2 below)

Performance Requirement	Preferred Solution	Compliance <i>(Whether proposal meets Performance Requirements or Preferred Solutions.)</i>
P1.3 Neighbour's principal private outdoor open space receives 3 hours of sunlight over at least 50% of its area throughout the year. If less currently available, the amount is not reduced.		Yes (see Section 10.3.2.2 below)
P4 Building Layout, Design and Construction Protect from prevailing strong winds and adverse weather. ☐ Living areas are orientated to the north. ☐ Larger windows are located on the north.	S4 75% of dwellings achieve 3.5star Nat HERS rating or equivalent. No dwelling achieves less than 3 stars. The Anthers rating for each dwelling (on a typical unit basis) is provided with the application.	Proposal achieves compliance with BASIX targets (see Section 10.3.2.4 below).
P5 Buildings have roofs with pitch suitable for solar collectors.	S5 Adequate area of roof between 45 degrees east and 45 degrees west or north, and a slope between 15 and 55 degrees to the horizontal for installation of solar collectors.	N. A. – solar collectors not proposed
Safety and Security		
P1 Design allows surveillance.		Yes
P2 Approaches and entries are visible.		Yes
P3 High walls and structures avoided.		Yes
P4 Resident car parking has security grilles or doors.		Yes in part.
P5 Visitor parking spaces clearly identifiable.		Yes by condition
P6 Adequate lighting for personal safety and security provided.		Yes by condition
P7 Adequate lighting is provided in common areas.		Yes by condition

Performance Requirement	Preferred Solution	Compliance <i>(Whether proposal meets Performance Requirements or Preferred Solutions.)</i>
P8 External lighting does create a nuisance.		Yes by condition
Parking		
<i>Required On-site Parking</i> <i>1 bedroom dwelling</i> <u>1 space per dwelling</u> <i>2 bedroom dwelling</i> <u>1.2 spaces per dwelling</u> <i>3 or more bedroom</i> <u>1.5 spaces per dwelling</u> <i>Visitor parking is 1 space per 4 dwellings.</i>		See Section 10.2.2 below.
P1 Garages and parking structures do not dominate the street frontage.		Yes – all carparking in basement.
P2 Parking spaces for people with a disability provided as required (refer to dwelling number requirements in P1 and P2 Barrier Free Access.		Condition to be applied for compliance.
P3 Secure storage for bicycles is provided.		Yes on ground level
Driveways and Manoeuvring Areas		
P1 Areas of driveways and manoeuvring are minimised.		Yes
P2 Vehicles enter/ leave in a forward direction.	S2 Vehicles enter with a single turn and leave in no more than 2 turns.	Yes
P3 Driveways and access roads avoid a 'gun barrel' effect.	S3 Long driveways provide passing bays.	Driveway is largely internal within the basement carpark.
P4 Space between boundaries and driveways, access ways and parking spaces enables landscaping and planting.	S4 Driveways have a minimum width of 3 metres and is at least 1 metre from any side or rear fence.	N.A.
P5 Materials and finishes are consistent.	S5 Large expanses of uncoloured concrete avoided.	Yes

Performance Requirement	Preferred Solution	Compliance <i>(Whether proposal meets Performance Requirements or Preferred Solutions.)</i>
P6 Driveway gradients safe.	S6 Driveway gradients do not exceed 1 in 6 or 1 in 5 for ramps over 20m.	Yes by condition to comply with Australian Standard
Storage		
P1 Accessible and separate storage for each dwelling.	S1 10m2 of storage space is provided for each dwelling. Minimum clearance height of 2.1m. At least 50% of storage space is within dwelling and is readily accessible from either the hallway or main living area. Storage facilities may be in basement areas, or attached to garages.	Yes – Accessible and separate storage for each dwelling provided in basement.
Barrier-free access		
Access for people with a disability is provided to and within one dwelling at the following rate: 0-14 dwellings 0 15-29 dwellings 1 30-44 dwellings 2 45-60 dwellings 3 and so on.		N.A. as only 12 dwellings are proposed.
Utilities / Site Facilities: subject to appropriate conditions of consent		
Waste Minimisation and Management		
P1 Waste collection and separation facilities for each dwelling.	S1 Each kitchen has a waste cupboard for separation of recycling materials, with adequate storage for one day's waste.	Yes by condition

Performance Requirement	Preferred Solution	Compliance <i>(Whether proposal meets Performance Requirements or Preferred Solutions.)</i>
P2 Waste storage to be provided in a centralised position that has easy access for moving bins to the street for collection.		Yes – two centralised garbage storage areas are provided at basement level.
P3 The location and design of waste facilities does not visually detract from the development or the streetscape.	S3 Waste facilities not to be located between the front building alignment and the road.	Waste facilities provided in basement level therefore not visible from street.

An assessment of the provisions of the DCP – Multi-unit Housing in relation to the proposal is given in Section below.

9.2 Development Control Plan - Parking

Table 3: Compliance with DCP – Parking

USE	REQUIREMENT (DCP – Parking)	PROPOSED NUMBER AND / OR FLOOR AREA	REQUIRED PROVISION	PROPOSED PROVISION
	1 space per one bedroom dwelling	3 x one bedroom dwellings	3 spaces	15 residential carspaces
	1.2 spaces per two bedroom dwelling	8 x two bedroom dwellings	9.6 spaces	
	1.5 spaces per three bedroom dwellings	1 x three bedroom dwellings proposed	1.5 spaces	
	Visitor: 1 space per 4 units	Total dwellings = 12	3 spaces	
Retail	1 space per 40 sqm GFA	177.8 sqm	4 spaces	Nil
TOTAL			18.1 spaces	15 spaces

10. ENVIRONMENTAL ASSESSMENT

The site has been inspected and the application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act, 1979, as amended.

10.1 Statutory Controls – S79C(1)(a)

10.1.1 Existing use rights – S106 - S108

The applicant claims the site benefits from existing rights under the provisions of Section 106 of the EP&A Act. This requires that the use of a building, work or land was lawfully granted and commenced. As well, under Section 107, the use is

presumed to be abandoned, unless the contrary is established, if the use ceases for a continuous period of 12 months.

In terms of the current uses within the existing shops, only the existing restaurant at No. 10 Bream Street has a record of development consent having been issued by Council. There is no record of any consent having been issued for the remaining three shop-uses, namely, the newsagency at No. 12, the Supermarket at No. 14 and the pool shop at No. 16. Notwithstanding this, it is considered reasonable to regard the subject site as enjoying existing use rights for shops for the following reasons:

- The existing shops on the subject site have been in existence prior to the coming into force of the Cumberland Planning Scheme in early 1950 with the subject site zoned "Living Area" under that Instrument, in which development for the purposes of shops with dwellings above was permissible. Such use became a prohibited use with the coming into force of the Randwick Planning Scheme Ordinance on 28 April 1978 and has been prohibited since that time and that the current use has continued throughout that period, with the result that the site has the benefit of existing use rights pursuant to s106 of the Environmental Planning and Assessment Act.
- The applicant has provided a Land and Property Information (LPI) Title Search indicating that the existing shops within the subject site have been leased continuously to a series of business tenants since details of leases were first recorded in 1989. The LPI also indicates the lease arrangements of the current tenants of shops Nos. 10, 12, 14 and 16 Bream Street.
- The existing business premises are situated within, and operate from, a part of the existing buildings that was originally designed and constructed for use as shops.

In view of the above, the subject site is considered to enjoy existing use rights and has been used continuously for shops and residence above, and not abandoned. Accordingly, pursuant to Section 108(3) any provisions in an instrument that would derogate from the "incorporated provisions" of the Act would have no force or effect on the proposed development (that is, the development standards of the Randwick LEP 1998 and relevant DCPs do not apply to the proposed development). To confirm this Council has obtained legal advice which indicates that notwithstanding that part of the development proposed is for multi-unit housing which is permissible within the existing Residential 2C zone without the benefit of existing use rights, the applicant is entitled to claim the benefit of the existing use rights to the whole of the proposed development. The benefit being that the incorporated provisions override the LEP provisions to the extent that the latter provisions derogate from the incorporated provisions. As such, the development application must be considered on its merits with the provisions of the Randwick LEP 1998 to be used as a guide to be applied in assessing the proposed development.

10.1.2 Randwick Local Environmental Plan 1998

As the site enjoys the benefits of existing use rights, the provisions of the Randwick LEP 1998 that would derogate from the "incorporated provisions" of the EP&A Act have no force or effect pursuant to Section 108 of the EP&A Act. Notwithstanding this, the relevant aims, objectives and development standards of the Randwick LEP 1998 are considered as a guide in the context of a merit assessment of the proposal. In this regard, The Land and Environment Court has stated, in the case of *Fodor Investments v Hornsby Shire Council*, 2005, that "*It is an established planning principle that while planning controls do not apply to sites with existing use rights, they have relevance to the assessment of applications on such sites ... because the*

controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped." Having regard to this, the aims/objectives of the Randwick LEP 1998 that are relevant to the assessment of the subject application are as follows:

- *The aim of Clause 2 (g) is "to promote, protect and enhance the environmental qualities of the City".*
- *The objective of clause 12 (1)(c) is "to enable residential development in a variety of medium density housing forms where such development does not compromise the amenity of surrounding residential areas".*

The proposal, as described and assessed in the relevant assessment sections below, will result in a development that will meet this relevant aim of the LEP and objective of the 2C zone as the proposal overall, will fit into the existing context of development in the locality and will not detract from the character of the area. The proposal is also satisfactory with regard to the relevant objectives of the 2C zone.

The proposal has a maximum FSR of 0.96:1 which varies from the maximum FSR control of 0.9:1 under the Randwick LEP 1998. Assessing the proposal on its merits, the variation in the FSR is considered acceptable for the following reasons:

- the proposed buildings step down in height from the Bream Street frontage to the Melody Lane frontage effecting a transition between the height and scale of existing residential flat development on Bream Street and the lower scale and open space character of development to the south of the site.
- The bulk and scale of the proposed buildings are minimised by the design of the individual buildings through the use of setbacks at the upper levels and different façade treatments which break-up the building facades into distinct elements to visually differentiate the building.
- The locality in which the proposed development is located is an area with predominantly medium to high density residential developments so that in context, the redevelopment of the subject site for the residential use at the density proposed accords with the LEP objectives for the locality.
- The proposed non-compliance does not result in any inconsistencies with the objectives of the 2C zone in which the site is located as it will contribute towards the variety of housing types in the area and enable residential development in a variety of medium density form where such development does not compromise the amenity of surrounding residential areas and is compatible with the character of existing development in the area. Overall, the proposal will contribute to a better urban environment whilst ensuring an orderly and economic use of land for a mixed retail and residential use.

10.1.3 State Environmental Planning Policy 55 – Remediation of Land

Clause 7(1)(a) of the SEPP requires Council to consider whether the land is contaminated in the consideration of development applications. The applicant has provided a Preliminary Environmental Site Assessment Report prepared by Environmental Investigation Services (EIS). Preliminary site investigations have been undertaken and the site has been identified as possibly having various contaminants in the soil. A remedial strategy has been identified in the Report and outlined briefly. Council's Environmental Health Officer advises that a Remediation Action Plan and Validation Report will be required to ensure that the land will be suitable for the intended use.

(c) State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)

The proposal is subject to the provisions of State Environmental Planning Policy No. 65 (SEPP 65) – Design Quality of Residential Flat Buildings. Any redevelopment of the site for multi-unit housing purposes should achieve consistency with the design quality principles embodied in SEPP 65. This approach has been reinforced by the Land and Environment Court in a recently adopted planning principle regarding Existing Use Rights (*Fodor Investments vs Hornsby Shire Council*). The application has been considered by Council's Design Review Panel. The Panel's comments are addressed in section 10.4.2.1 below.

10.2 Policy Controls– Section 79C(1)(a)

10.2.1DCP – Multi-unit Housing

Using the DCP-Multi-unit housing as a guide, Section 9.21 above indicates that the proposal would comply with all the provisions of the DCP with the exception of building setbacks. The variations from the side and rear setback requirements are considered acceptable for the following reasons:

- The zero eastern and western side setbacks to Building 1 reflects the built form of the existing shops which are built to the boundary on the eastern and western sides. The retention and refurbishment of the shops in Building 1 will retain this existing built form and footprint.
- The breach in the setback on the eastern side of Building 2 occurs in a localised area where an awning structure is proposed over the entry to this building. The breach occurs only for a length of approximately 2.4m
- The breach in the setback to the southern rear boundary occurs in a localised area where the living/dining area of Unit 1 in Building 2 is proposed, for a length of approximately 7m. The breach presents no loss of privacy issues as the rear south elevation of Building 2 faces Melody Lane and a local open space on the opposite side of this lane.

10.2.2DCP – Parking

While the parking requirements for the residential component will be fully met on-site, the proposal will have a shortfall in carparking of 4 retail carspaces which is the total amount required for the shops under the DCP. The absence of any carparking for the proposed shops is considered reasonable for the following reasons:

1. The proposal seeks only to refurbish the existing shops. There is no on-site carparking available for the existing shops which are currently well served by an existing bus route to and from the Sydney CBD and a bus stop in front of the shops.
2. The proposed refurbishment of the shops will result in a decrease in the retail gross floor area due to the provision of an external walkway to the rear residential Building 2. As such, given the existing absence of carparking for the shops, there will be no increase in carparking demand arising from the shortfall in the proposal.

10.2.3 Contaminated Land Policy, 1999

Council's Contaminated Land Policy applies to the site and has been addressed by Council's Environmental Health Officer in section 6.2. The officer has assessed the site contamination report submitted with the application and raises no objections to the findings subject to appropriate conditions being imposed on any consent for the site including the requirement for a Remediation Action Plan and a Validation Report confirming the site is suitable for the intended use. Accordingly, the proposal is satisfactory with regard to Council's Contaminated Land Policy.

10.3 Likely impact of the development - S79C(1)(b)

10.3.1 Natural Environmental Impacts

The subject site contains existing buildings and hard paving/slab and lies within an existing built-up area in Coogee. As such, there are no threatened species, populations or ecological communities or habitats that would be affected by the proposed development either within, or in the vicinity of, the development site.

10.3.2 Built Environmental Impacts

10.3.2.1 Urban Design

The Bream Street elevation of Building 1 will be rendered masonry external walls with select paint and textured finish. Building 1 will have an external wall framing the balconies of dwelling units on the level above the shops which will provide a solid edge to Bream Street consistent with the existing presentation of the shops and dwellings above. This external wall will also have the effect of fully recessing the balcony to these dwelling units with appropriate corbel treatment around balcony openings and to the parapet to provide visual interest and articulation. Additionally, the living rooms and bedrooms in north-facing dwelling units within Building 1 will be linked by common balconies to enhance living amenity within. Building 1 will have copper panel cladding on the side and rear external walls of the upper-most floor to further enhance the visual qualities of the building. Overall, the façade treatment to Building A will create a visually definable base, middle and top when viewed from Bream Street.

The side and rear elevations of Building 2 mirrors that of Building 1 in providing a similar copper panel cladding on the side and rear external walls of the upper-most floor to provide visual consistency and interest. Building 2 has been stepped down by approximately 2m from the ground floor level of Building 1 consistent with the sloping nature of the subject site. Overall, the southern façade of Building 2 provides an appropriate frame to Melody Lane, creating visual interest that complements existing development in the lane.

It is noted that the immediate adjoining property to the east of the proposed development is an existing 2 storey residential flat building with a high pitched roof fronting Bream Street. Building 1 of the proposed development will lower in height than this adjoining residential flat building such that, visually, Building 1 will not be overbearing or overwhelming in terms of bulk and scale.

The orientation of the two proposed buildings will result in apartments overlooking streets and the communal open space. Accordingly, the proposal has been designed to allow casual surveillance of the street with all entry points clearly visible from both the proposed development and surrounding streets.

Under the provisions of SEPP 65, a Design Review Panel reviewed the proposal on 7 May 2007 and has found the proposal satisfactory on all the SEPP 65 assessment

criteria as detailed below. The Panel's comments are listed in italics below (with Council's comments in bold wherever necessary):

1. *Relationship to the Context of the Proposal*

Following the Pre DA meeting the Applicant has revised and improved the design to retain the built edge to Bream Street. Further contextual information such as neighbouring buildings, extended street elevations and set back requirements clearly marked on the drawings would assist in the assessment of this proposal. The Council officers are willing to look at options for the southern part of the site in relation to the large setbacks that are required.

Comment: The applicant has provided adequate contextual detail in the submission in the form of (1) Bream Street and Melody Lane perspectives showing the built form and visual relationship of the proposed development with that of the adjoining properties and (2) survey details of the adjoining properties to the east and west showing RLs to AHD of roof, eaves windows. These details adequately show that the development as proposed in the DA submission will relate well with existing developments in the adjoining and surrounding area in terms of bulk, scale and height. Apart from localised breaches in the side and rear setbacks, Building 2 (in the southern part of the subject site) nevertheless achieves the average minimum side and rear setbacks. Any redesign to extend the building into these setback areas, as suggested by the Panel, will result in increased bulk, scale and density which is considered inappropriate and unwarranted.

2. *The Scale of the Proposal*

The elevation to Bream Street has been improved however the façade openings and proportions could be reconsidered to optimize northern sun and provide a more convincing architectural scale. The roof to the upper level is high and yet there is no additional glass height, ceiling height or venting to the apartments within. It would therefore be better to either take full advantage of the height or reduce the height of this roof so that it is less dominant to the street.

The scale of the southern building facing Melody Lane could also be improved with a more consolidated form rather than the many separate elements that are currently proposed. It would be more desirable to have a unified architectural scale to the broad space of the park to the rear, rather than something overly domestic. These forms have in part been a product of the setback requirements however some rationalization is possible. The roof forms could also be rationalized, reducing the down pipe and gutter requirements.

Ceiling heights of 2.7 m in living areas are required under SEPP 65. The current proposal of 2850 floor to floor should be checked with regard to acoustic requirements. The Panel suggests 3.0 to 3.1 metres floor to floor is required, though the top ceiling / roof detail could also be reconfigured to provide additional internal height without much increase to the overall height.

Comment: Whilst the open-pitched roof form to Bream Street results in added height to the streetfront, the proposal is acceptable in that it complies with the maximum building height control in the LEP, and provides for an appropriate visual feature as well as roof articulation in Building 1 to Bream Street. Furthermore, as suggested by the Panel, the height afforded by the roof form can be utilised for venting to the apartments and additional glass height by way of conditions should approval be granted.

In relation to the design of the southern building (Building 2) facing Melody Lane, as discussed in the preceding point above, the Panels requirement for further building

options to utilise and reduce the side and rear setbacks of this building is not warranted for the following reasons:

- The side and rear setbacks of Building 2 from the adjoining eastern and western properties generally comply with the DCP – Multi-unit housing (with the exception of some localised points) such that any alternative built form to utilise the setback areas would compromise the required separation distances to adjoining properties and by definition, privacy and solar/daylight access protections to these properties.
- The design and presentation of Building 2 is considered an appropriate residential built form that relates suitably to the streetscape of Melody Lane and the existing residential properties fronting this lane.
- As required by the Panel, a condition will be applied requiring the proposed gutter and down-pipes in the proposal to be suitably treated/concealed to further improve the visual amenity of proposal.

3. *The Built Form of the Proposal*

Generally the built form is an appropriate response to the site and creates greater amenity within the site and for the neighbours, however the internal layouts and sizes of units should be reinvestigated to increase amenity. This will in turn affect the final built form.

The elevations have some awkward proportions, window relationships and roof details, all of which can be rationalized when the planning arrangements are finalized.

The retention of the shop fronts and awning to Bream Street is strongly supported.

Comments: The applicant advises that the proposal achieves cross-ventilation to all dwelling units and the BASIX certificate indicates that the proposal achieves the required targets for energy efficiency, water conservation and thermal comfort. In relation to elevations, a deferred commencement condition will be applied requiring the submission of amended plans and elevations showing accurate dimensions and proportions for all architectural features of the proposal.

4 *The Proposed Density*

The density is considered appropriate for the site and location however any argument for increased FSR needs to be supported by good amenity to all dwellings and reasonable impacts on neighbours.

5 *Resource and Energy Use and Water Efficiency*

All apartments have the potential for good solar access, cross ventilation and day-lighting. Ventilating skylights have been added to the internal top floor bathrooms. Sunshading and weather protection to some of the windows needs to be addressed. Window operation should be indicated on the drawings and generally be designed for optimum cross ventilation. Nighttime ventilation needs to be considered with security issues in mind.

Ceiling fans should be provided to bedrooms.

Comments: Deferred commencement conditions will be applied requiring the inclusion of sunshading and weather protection devices to windows, details of window operation to optimise cross-ventilation and address security issues.

6. *The Proposed Landscape*

The landscape plan prepared by the Landscape Architect has been submitted to Council however the Panel will also need to review the design. A copy should be provided by the Council for the Panel. Soil depths to the central courtyard should include areas deep enough to support trees of around 8 – 10 metres. It would seem that more soil depth could be achieved above some areas of the car parking.

The proposed balcony planters may benefit from more soil area and should be provided with an irrigation system to ensure their long term sustainability.

The driveway width has been reduced and improvements made to the entry.

The pergola design and pathway indicated on the landscape drawings should be included in the architectural drawings.

Comments: A condition will be applied to increase the height of planter boxes in the central courtyard above the basement carpark podium. Council's Landscape Officer has reviewed the proposal's landscape plan and raises no objections to the landscape design subject to conditions to improve tree planting screening along Melody Lane.

7. *The Amenity of the Proposal for its Users*

The internal layouts are very tight with some bedroom and living room widths considered to be below minimum dimensions required for a reasonable degree of flexibility. Apartments in the order of 70m² for a 2 bedroom and 90m² for a 3 bedroom apartment are uncomfortably tight, as evidenced in the very small bedroom sizes. The bathrooms in some of the layouts would benefit from a shower over the bath to provide more floor space.

Internal space for circulation in unit 12 may be able to be reduced with a different planning arrangement. A living/dining area with a long single bench kitchen may provide a more adaptable apartment layout and larger bedrooms.

Some overlooking from balconies could be reduced with pergola or screen details.

Although furniture layouts have been prepared they have not been included on the drawings. Their inclusion would assist in the assessment of the application.

The proposal, with some adjustment in line with this report, has the ability to deliver apartments of quality and high amenity.

Comment: The shortfall in floor area of the bedroom amounts to approximately 3 sqm against the requirements of the Residential Flat Design Code. Following discussions with the applicant's architect, the area of bedrooms for all apartments can be increased to achieve the minor shortfall in bedroom area by replanning the internal layout of service areas in the apartments as suggested by the Panel. Accordingly, the applicant is agreeable to a deferred commencement condition requiring the increase in the bedroom areas. In addition, deferred commencement condition will also be included requiring the rearrangement of the internal areas of Unit No. 12 to improve circulation, inclusion of furniture layouts to floor plans and provision of privacy screen to balconies.

8. *The Safety and Security Characteristics of the Proposal*

Satisfactory.

9. *Social issues*

Satisfactory. The retention of the local shops and awning at the bus stop is good for the neighbourhood, and the apartments overlooking the southern park increases the safety of this area.

10. *The Aesthetics of the Proposal*

Further development of the design, materials, details and colours is required for a reasonable assessment of aesthetics to be made. A detailed part elevation and large scale wall section, nominating materials and finishes, should be provided along with a materials and colours board.

SUMMARY AND RECOMMENDATIONS

The Panel appreciates that the Applicant has aimed to achieve a high level of amenity within the existing streetscape and context however there is scope to further maximize the opportunities of the site.

The Applicant should develop the proposal in consultation with the Council assessing officer.

The Panel looks forward to reviewing this proposal again once these improvements have been made.

Comment: In view of the assessment made to each of the Panels concerns above and given the applicant's agreement to address a number of issues by way of conditions of consent, referral of the proposal to the Panel is now not considered necessary. The Panel members have been advised of the applicant's response accordingly.

10.3.2.2 Sunlight, Privacy and Views

Shadow diagrams submitted with the application indicate that at 9am, 12 noon and 3pm in the winter solstice, overshadowing will fall on the rear yard of the adjoining shop at No. 8 Bream Street and Melody Lane. It should be noted that, this rear yard is not a principal landscaped area as defined in the DCP – Multi unit Housing and appears as a service area for the adjoining shop. By 12:00 noon the rear yard of No. 8 Melody Street will be free from overshadowing from the proposed development with the shadows falling solely within the development site and Melody Lane. By 3:00 pm overshadowing will occur onto the rear yard of the adjoining residential flat building to the east at No. 18 Bream Street. Objections have been raised by owners/residents in No. 18 Bream Street to the loss of afternoon sunlight as a result of the proposal. These concerns are addressed as follows:

- Afternoon overshadowing of the rear yard of No. 18 Bream Street arises principally from the new southern building (Building 2). The yard will be free from overshadowing from Building 2 for the bulk of the day (ie., in the morning and noon). Accordingly, the proposal meets the DCP requirement for principal landscape areas of neighbouring dwellings not to have access to sunlight reduced to less than 3 hours per day.
- Building 2 complies with the required average minimum side and rear setbacks under the DCP – Multi-unit housing as well as the maximum building and wall height under the Randwick LEP. As such, the overshadowing of the rear yard of No. 18 Bream Street arises as a natural consequence of the north-south orientation of the existing allotment and the resultant built form as determined by the application of the controls in the DCP – Multi-unit housing and not as a consequence of any unreasonable breach of these controls resulting in excessive building bulk and scale. The overshadowing therefore is not considered unreasonable

In terms of privacy, objections have been raised in relation to loss of privacy to the rear yard of the adjoining residential flat building at No. 18 Bream Street. The closest building that may give rise to loss of privacy to the rear yard of No. 18 Bream Street will be the proposed southern building, Building 2. An assessment of Building 2 indicates that overlooking to the rear yard of No. 18 will not be significant for the following reasons:

- Only two balconies linked to living areas (in Units Nos. 1 and 4) will be located adjacent to the rear yard of No. 18 Bream Street, however, these balconies will be setback by 5m from the common boundary as required under the DCP – Multi-unit housing and will be screened with privacy louvres.
- Windows in the east elevation of Building 2 are linked to bathrooms and bedrooms (and not to living rooms) which are primarily uses that will not be conducive to overlooking.
- The proposal's landscape plan indicates substantial screen planting along the common eastern boundary to No. 18 Bream Street which will be further reinforced by way of landscaped conditions should approval be granted.

Overall, the proposal will be acceptable in term of privacy especially given that a majority of apartments will have living areas facing relevant street-frontages to Bream Street and Melody Lane, and not to adjoining residential properties to the east and west.

In terms of views, the proposal will have minimal, if no impact, on any existing district views that may be obtained by surrounding residences because such views will be limited and relatively insignificant given the existing flat topography of land in the locality.

Overall, the proposal is satisfactory with regard to solar access, privacy and views.

10.3.2.3 Traffic and access

The proposal for 12 dwelling units is expected to generate approximately 60 movements per day with 6 vehicles per hour two-way during the morning and afternoon peak periods. This increase is a low traffic generation which will have minimal impact on the performance of existing intersections in the locality. There will be adequate capacity in the surrounding road network to cater for the traffic generated by the proposed development. It should be noted that the net increase in the number of dwellings will be 8 units given that there are 4 existing dwellings above the existing shops so that in real terms the impact of traffic will be further minimised.

Overall, the increase in traffic generation in the proposed development is not considered to have a significant traffic impact on the adjacent classified road network.

10.3.2.4 Ecologically Sustainable Development

The applicant has provided a BASIX assessment of the proposal in accordance with BASIX modelling requirements which indicates compliance with the targets for multi-unit housing , achieving 41% in water saving and 35% in energy consumption and a “pass” for Thermal comfort.

Specifically, the proposal achieves cross-ventilation for all dwelling units; and 83% of proposed units will receive a minimum 3 hours direct sunlight

between 9am and 3pm in midwinter (minimum 70 % required under the Residential Flat Design Code).

The proposed development will be well served by public buses along Bream Street, linking the subject site to the CBD, via Randwick Junction in keeping with the promotion of public transport usage as a primary means of enhancing ecological sustainability and the reduction of greenhouse gases in the Sydney Region. The proposal would assist in encouraging the use of public transport in line with ESD principles.

Overall, the proposal is considered acceptable in relation to Ecologically Sustainable Development issues.

10.4 Social and Economic Impacts – S79C(1)(b)

The proposal will increase the availability of housing and promote the key directions and actions for the Randwick City Plan and the objectives of the Residential 2C zone contained in the Randwick LEP 1998. The effect of the proposal would be to bring more people to the locality potentially linking them to existing economic, institutional and service facilities in the area. Overall the proposal presents a positive impact within the site and locality.

10.5 Suitability of the site – S79C(1)(c)

The subject site is zoned Residential 2C. The subject site is therefore suitable for the proposed conforming medium density residential development whilst retaining the existing non-conforming shop use. The shop use will also be suitable for the subject site as an existing use given its neighbourhood scale and function.

The site is well located in relation to Coogee Beach and the Randwick and Spot town centres. Public bus services are also available in the immediate locality.

10.6 Any submissions made – S79C(1)(d)

The proposal was notified and advertised between 28 March 2007 and 18 April 2007. The issues raised in submissions to this notification/advertising process have been addressed in relevant sections of this report as indicated in Section 5 above.

10.7 The public interest – S79C(1)(e)

The proposed development will be in the public interest as it will provide additional housing stock in an area that is highly accessible by public buses and private vehicles. In addition, the proposal will consolidate the residential character of the locality by enabling residential development of a medium density housing form without compromising the amenity of surrounding residential area in accordance with the Randwick City Plan and the Randwick LEP 1998.

11 RELATIONSHIP TO CITY PLAN**11.1 Outcomes**

Outcome : Leadership in sustainability – The proposal will achieve the BASIX targets for water conservation, energy consumption and thermal comfort as well as achieve high levels of cross ventilation, dual aspect and solar access for dwelling units.

Outcome : Excellence in urban design and development – The proposal has a good architectural quality in that maximises the potential of the subject site in the context of the existing surrounding development whilst minimising impacts on adjoining and nearby residential properties.

11.2 Directions and Actions

Direction 4a & associated key action : Improved design and sustainability across all development –The proposal will achieve the BASIX targets for water conservation, energy consumption and thermal comfort as well as achieve high levels of cross ventilation, dual aspect and solar access for dwelling units.

11. FINANCIAL IMPACT STATEMENT

There is no direct financial impact for this matter.

12. CONCLUSION

The applicant has lodged the subject application on the basis of existing use rights pertaining to the existing shops on the subject land which have been in existence prior to the coming into force of the Cumberland Planning Scheme in early 1950, and notwithstanding such use becoming prohibited under the Randwick LEP 1998, the use of the shops has continued in the period between the two instruments. It is considered that the applicant has satisfactorily established existing use rights such that the proposed development can be granted consent in the Residential 2C zone.

A merit based assessment has been made of the proposal, using Council's controls as a guide to the type of development envisaged on the site and its 'reasonableness'. Whilst the proposal varies from the maximum FSR contained in the RLEP; the setback requirements of the DCP – Multi-unit Housing; and the retail carparking requirement of the DCP – Parking, the development overall is considered to be consistent with the character of existing development and performs adequately with regard to streetscape, bulk and scale, safety and security, solar access and privacy to adjoining properties, and traffic and parking impacts to surrounding properties, subject to appropriate conditions.

The recommendation is for deferred commencement approval of the application subject to conditions.

RECOMMENDATION:

- A. THAT Council as the responsible authority grant its development consent as a Deferred Commencement under Section 80(3) of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No DA/185/2007 for the refurbishment of 4 existing shops and construction of new multi-unit housing development above and in a new building to the rear containing a total of 3 x 1 bedroom, 8 x 2 bedroom and 1 x 3 bedroom dwellings with basement parking, plus strata subdivision at 10-16A Bream Street, Coogee, subject to the following conditions:

Deferred Commencement Conditions

The consent shall not operate until the following amendments and details have been submitted to and approved by the Director of City Planning.

1. Amended plans and elevations showing accurate dimensions and proportions for all architectural features of the proposal including the following:

- Provision of venting to the apartments and/or additional glass height in the north elevation and roof of Building 1 fronting Bream Street so as to utilise the height afforded by the proposed roof form to Bream Street as recommended by the Design Review Panel.
 - Increase in the area of all bedrooms, through internal redesign of bathrooms/service areas within the proposed envelope of the building that is subject of the DA as lodged and to be approved, in accordance with the requirements of the Residential Flat Design Code as recommended by the Design Review Panel (there shall be no increase in the envelope of the proposed building that is subject of the DA as lodged and approved).
 - Rearrangement of the internal areas of Unit No. 12 to improve circulation as recommended by the Design Review Panel.
 - Inclusion of furniture layouts to floor plans.
 - Provision of privacy screen to balconies in Building 1 to enhance protection of privacy to No. 18 Bream Street.
 - Increase the height of planter boxes in the central courtyard above the basement carpark podium to provide adequate soil depth to tree plantings of 8-10 m as recommended by the Design Review Panel.
 - Inclusion of pergola design and pathway indicated on the landscape drawings into the architectural drawings as recommended by the Design Review Panel.
 - Deletion of the bi-fold windows in all shop fronts to Bream Street in Building 1 and replace with appropriate enclosing glazed element/façade.
 - The proposed gutter and down-pipes in the proposal to be suitably treated/concealed to further improve the visual amenity of proposal as recommended by the Design Review Panel
 - inclusion of sunshading and weather protection devices to windows and provision of details of window operation to optimise cross-ventilation and address security issues as recommended by the Design Review Panel.
2. Details of the external colours, materials, textures and finishes of the proposal in the form of a comprehensive sample board linked and coded to a coloured elevation and/or street perspective.

Subject to compliance with the deferred commencement conditions, to the satisfaction of the Director of City Planning, development consent is granted under Section 80 & 80A of the Environmental Planning and Assessment Act 1979 subject to the following conditions:

REFERENCED PLANS:

1. The development must be implemented substantially in accordance with the plans numbered DA03 to DA09, all dated June 2006, and stamped received by Council on 13 March 2007, and the application form, and on any supporting information received with the application, except as may be amended by the details/amendments approved pursuant to the deferred commencement conditions and by the following conditions and as may be shown in red on the attached plans:

The following conditions are applied to satisfy the provisions of section 79C of the Environmental Planning and Assessment Act 1979 and to maintain reasonable levels of environmental amenity:

2. Details of bicycle storage as required in the Development Control Plan – Parking shall be submitted to and approved by Council prior to a Construction Certificate being issued for the development.
3. Street numbering must be provided to the premises in a prominent position, to the satisfaction of Council.
4. The reflectivity index of glass used in the external façade of the development must not exceed 20 percent.
5. Lighting to the premises shall be designed in accordance with AS4282 – 1997 Control of the Obtrusive Effects of Outdoor Lighting" so as not to cause a nuisance to nearby residents or motorists and to ensure that light overspill does not affect the amenity of the area.
6. In accordance with the provisions of clauses 143A and 154A of the Environmental Planning & Assessment Regulation 2000, a 'Design Verification Certificate' must be provided to the Certifying Authority and the Council, prior to issuing a construction certificate and an occupation certificate, respectively.
7. Development consent is required to be obtained in relation to the specific 'use and operation' of shop tenancies or occupancies, in accordance with the relevant requirements of the Environmental Planning & Assessment Act 1979.
8. Public access to the visitor's carparking spaces is to be maintained at all times and an intercom system is to be provided adjacent to the vehicular entrance to the carpark, together with appropriate signage providing instructions for use.
9. In accordance with Section 80A (11) of the Environmental Planning and Assessment Act 1979 and Clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition that all of the required commitments listed in the relevant BASIX Certificate for this development are fulfilled.
10. In accordance with the provisions of the Environmental Planning & Assessment Regulation 2000, a relevant BASIX Certificate and associated documentation must be submitted to the Certifying Authority with the Construction Certificate application for this development.

The required commitments listed and identified in the BASIX Certificate are to be included on the plans, specifications and associated documentation for the proposed development, 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.

The following conditions are applied to satisfy the provisions of Council's environmental plans, policies and codes for subdivision works:

11. The registered proprietor of the land the subject of this consent shall enter into a positive covenant that no right of exclusive use and enjoyment of the whole or any specified part of the area or areas designated as common area or

similar in the approved plans will be conferred on any person or persons without the prior approval of Randwick City Council.

12. Where the plans which are the subject of this consent reserves parking spaces and/or courtyards for the exclusive use and enjoyment to an occupier of the land, the registered proprietor shall enter into a positive covenant that no change will be made to such reservations without the prior approval of Randwick City Council.

The following condition/s are applied to satisfy the increased demand for public amenities and public services:

13. In accordance with Council's Section 94 Contributions Plan effective from 2 September 1999, the following monetary contribution is to be paid to Council.

a)	for the provision or improvement of open space	\$13489.00
b)	for the provision or improvement of community facilities	\$5967.00
c)	Administration fee	\$425.00

The contribution must be paid in cash or by bank cheque a **construction certificate being issued**

for the proposed development, together with payment of the required **Section 94 Administration Fee of \$425.00**. Council's Section 94 Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick.

The following conditions are applied to maintain reasonable levels of environmental amenity and public health safety.

14. The development is to be staged requiring two separate Construction Certificates to enable the satisfactory Remediation of the site whilst fulfilling the requirements of Section 81A of the Environmental Planning and Assessment Act, 1979.

The Stage one (1) Construction Certificate is to encompass;

- Excavation (including remediation works required by the Remedial Action Plan)
- Piering, Piling and or Retaining of the excavation
- Structural support of existing structures
- Drainage

The Stage two (2) Construction Certificate is to encompass;

- The remainder of the development

15. The following conditions must be satisfied **prior to issuing a construction certificate for Stage One (1) of the development (or as otherwise stated below)**:

- a) A Remedial Action Plan must be prepared by an independent and appropriately qualified environmental consultant and a report must be submitted to and approved by Council's Manager Health, Building and Regulatory Services (or delegated officer) prior to the issue of the Stage One (1) Construction Certificate.

The report must include details of any required remediation works, having regard to the development and works encompassed in this consent.

- b) The land must be remediated to a level that will satisfy the relevant criteria in the National Environment Protection (Assessment of Site Contamination) Measure (NEPM) 1999, the following matters must be satisfied (as applicable):-
- c) A Remediation Action Plan (RAP) is required to be submitted to and approved by Council prior to the issue of the Stage One (1) Construction Certificate.
- I. The RAP is to be prepared in accordance with the relevant Guidelines made or approved by NSW Department of Environment and Climate Change (DECC), including;
- The Guidelines for Consultants Reporting on Contaminated Sites
 - National Environment Protection (Assessment of Site Contamination) Measure (NEPM) Guidelines 2007.
 - NSW Planning Guidelines to SEPP 55 – Remediation of Land
- II. A written statement is to be provided to the Council from the Environmental Consultant, which confirms that the Remediation Action Plan satisfies the relevant legislative requirements and guidelines and that the land is able to be remediated to the required level and the land will be suitable for the intended development and use prior to the issue of the Stage One (1) Construction Certificate.
- III. Remediation works are required to be carried out in accordance with the relevant requirements of the Contaminated Land Management Act 1997, Guidelines made by the NSW Department of Environment and Climate Change (DECC) and Department of Infrastructure Planning & Natural Resources, Randwick City Council's Contaminated Land Policy 1999, the *Protection of the Environment Operations Act 1997* and conditions of development consent.
- IV. The requirements contained within any applicable Site Contamination Report, Remediation Action Plan, Site Management Plan or other strategy associated with the site contamination report and/or remediation strategy approved by Council, form part of this consent and must be complied with.
- V. Upon completion of remediation works, a Validation Report must be prepared by a suitably qualified Environmental Consultant and be submitted to and approved by Council **prior to the issue of the Stage two (2) Construction Certificate**. The validation report is required to confirm and provide details to demonstrate that the site is suitable for the proposed development and use and shall include:
- Description and documentation of all works performed.
 - Results of validation testing and monitoring.
 - Validation results of any imported fill onto the site.

- Demonstrate how all agreed clean-up criteria and relevant regulations have been satisfied.
 - Confirmation and justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants.
16. Any fill that is to be imported to the site is to be monitored, classified and documented by a suitably qualified Environmental Consultant. Only 'Virgin Excavated Natural Material' (VENM) is to be imported to the site, as defined within the NSW EPA 'Environmental Guidelines; Assessment, Classification and management of Liquid and Non-Liquid Wastes. 1999'.
17. Hazardous or intractable wastes arising from the demolition process being removed and disposed of in accordance with the requirements of WorkCover NSW and the Environment Protection Authority, and with the provisions of:
- New South Wales Occupational Health and Safety Act, 2000;
 - The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
 - The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
 - Protection Of the Environment Operations Act 1997 (NSW) and
 - Environment Protection Authority's Environmental Guidelines; Assessment, Classification and Management of Liquid and Non Liquid Wastes (1999).
18. The works shall not give rise to environmental pollution or public nuisance or, result in an offence under the Protection of the Environment Operations Act 1997 or NSW Occupational Health & Safety Act (2000) & Regulations (2001).

The following conditions have been applied to ensure that noise emissions from the development satisfy legislative requirements and maintain reasonable levels of amenity to the area:

19. The proposed use of the premises and the operation of all 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 premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background (L_{A90}), 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as an $L_{Aeq, 15 \text{ min}}$ and adjusted in accordance with the NSW Environmental Protection Authority's Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).

20. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises.
21. The development shall be ventilated in accordance with the relevant requirements of Part F of the BCA and Australian Standard A1668 Parts 1 & 2. Details of compliance with these standards and the BCA are to be submitted to and approved by the Certifying Authority with the construction certificate and a copy of the relevant documentation is to be provided to Council. In this regard, should mechanical ventilation be provided, the following is required:

A report, prepared by a suitably qualified and experienced consultant in acoustics, shall be submitted to the Council prior to an **occupation certificate for Stage (2)** being issued for the development, which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environmental Protection Authority Noise Control Manual & Industrial Noise Policy and conditions of Council's approval, to the satisfaction of Council's Manager Environmental Health & Building Services.

The following conditions are applied to satisfy the relevant pollution control criteria and to maintain reasonable levels of health, safety and amenity to the locality:

22. The use and operation of the premises shall not give rise to an environmental health or public nuisance and 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*.
23. Development consent is required to be obtained in relation to the specific 'use' of commercial tenancies/occupancies and 'shop fit outs', in accordance with the relevant requirements of the Environmental Planning & Assessment Act 1979.
24. The location and facilities for the collection, storage and disposal of wastes generated within the premises shall be submitted to and approved by Council **prior to the commencement of works.**

The following conditions are applied to provide adequate security against damage to Council's infrastructure:

25. The following damage/civil works security deposit requirement is to be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to the roadway, footway, verge or any public place; or 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:

a) \$5000.00 - Damage / Civil Works Security Deposit

The damage/civil works security deposit may be provided by way of a cash or cheque with the Council and is refundable upon:

- A satisfactory inspection by Council that no damage has occurred to the Council assets such as roadway, kerb, guttering, drainage pits footway, or verge; and
- Completion of the civil works as conditioned in this development consent by Council.

The applicant is to advise Council, in writing, of the completion of all building works and/or obtaining an occupation certificate, if required.

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.

The following conditions are applied to provide adequate provisions for access, transport and infrastructure:

26. The applicant must meet the full cost for Council or a Council approved contractor to undertake civil works along both the Bream Street and Dolphin Lane site frontages as required to facilitate pedestrian and vehicular access to the site. These works will include, but not necessarily be limited to, the following:

Bream Street frontage:

- a) Reconstruction of any damaged sections of footpath along the full site frontage;
- b) Reconstruction of any damaged sections of kerb and gutter along the full site frontage (including associated roadworks).

Dolphin Lane frontage:

- c) Construction of an asphalt roadway, (or other pavement as determined by Council), between Carrington Road and the eastern property boundary with one way cross fall to the south;
 - d) Construction of concrete laybacks and vehicular crossings at the following locations:
 - i) Opposite the proposed vehicular entrance to the site;
 - ii) Opposite the existing vehicular entry point to 8 Bream Street;
AND
 - iii) At the end of the new asphalt laneway (to facilitate vehicular access into the park by service vehicles when required).
 - e) Construction of new concrete kerb and gutter on both the northern and southern sides of the laneway between Carrington Road and the eastern property boundary (except in the areas of layback as defined above);
 - f) Construction of a new kerb inlet pit in the lowest point of the reconstructed laneway and connection to Council's underground drainage system in Dolphin Street via a new 375mm diameter RRRCP pipeline. The new pit and the pipe junction into Council's existing underground drainage system shall be designed and constructed to the satisfaction of Council's Assets Drainage Engineer.
27. 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.
28. The applicant shall note that all external work, carried out on Council property, shall be in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works". An application for the cost of the Council civil works is to be submitted to Council at the completion of the internal building works. An application fee shall be payable to Council for the quotation of the required works. The applicant may elect to use his contractor for the required works, subject to Council approval, however a design and supervision fee based on

the lowest quotation from Council's nominated contractor will be required to be paid prior to the commencement of any works.

29. Prior to the issuing of a Construction Certificate for the development site the applicant shall submit to Council for approval, and have approved, engineering details, specifications, plans and quality plans for all filling/excavation works, drainage construction works, roadworks, kerb and gutter construction, footpath construction, construction of earth retaining structures and site regrading, (including detailed levels, and cross sections that make reference to both existing and proposed surface levels) for all works associated with the reconstruction of Dolphin Lane. The engineering details and specifications shall include level and survey information, materials to be used, construction techniques and testing procedures and shall be prepared in consultation with Council and to the satisfaction of the Director Of City Services. The engineering details and specifications must be prepared by suitably qualified engineering consultants who must certify that the details and specifications meet best engineering practice and relevant standards. The applicant must liaise with Council's Development Engineer Coordinator prior to preparation of the subject details/specification.
30. A separate written approval from Council is required to be obtained in relation to all works which are located externally from the site within the road reserve/public place, in accordance with the requirements of the Roads Act 1993. Detailed plans and specifications of the proposed works are to be submitted to and approved by the Director of City Services prior to commencing any works within the road reserve/public place.

All works within the road reserve/public place must be carried out to the satisfaction of Council and certification from a certified practicing engineer is to be provided to Council upon completion of the works. All works within the road reserve shall be undertaken in such a manner as to minimize the impact on vehicular access to the rear of 8 Bream Street.

Relevant Council assessment and inspection fees, as specified in Council's adopted Pricing Policy, are required to be paid to Council prior to commencement of the works.

31. All new walls adjacent to vehicular crossings must be lowered to a height of 600mm above the internal driveway level for a distance of 1.50m within the site or splayed 1.5 metre by 1.5 metre to provide satisfactory sight lines. Details are to be submitted to the Certifying Authority prior to the release of the construction certificate showing compliance with this condition.
32. The driveway opening at the Dolphin Lane frontage must be must be 4.5 metres wide with a 1.5 metre by 1.5 metre splay on the western of the driveway. The driveway will reduce to 3.0 metres in width going into the development site. The applicant is advised to contact Council's Development Engineer Coordinator to discuss this requirement prior to lodgement of the Construction Certificate Application. The Construction Certificate plans must demonstrate compliance with this requirement.
33. The internal driveway must be a minimum of 3.0 metres wide (clear width) at all points along the driveway with a 1.5 metre by 1.5 metre splay on the western side of the driveway as referenced above.
34. The vehicular access and carpark are to be in designed in strict accordance with the requirements of AS2890.1:2004 (including, but not limited to, the

ramp grades, carpark layout and height clearances). The Construction Certificate plans must demonstrate compliance with this requirement. Particular attention must be given to the design gradients and transition sections along the proposed internal driveway given that a high point 300mm above the 1 in 100 year ARI flood level must be achieved/incorporated into the design.

35. A Works Zone is to be provided in Bream Street for the duration of the construction works. The 'Works Zone' shall be provided to the satisfaction of the Randwick Traffic Committee and shall have a minimum length of 12 metres. The prescribed fee for the Works Zone must be paid to Council at least four (4) weeks prior to the commencement of work on the site.

It is noted that the requirement for a Works Zone may be waived if it can be demonstrated (to the satisfaction of Council's traffic engineer) that all construction related activities (including all loading and unloading operations) may be undertaken wholly within the site.

36. Prior to the issue of a construction certificate, the applicant shall submit for approval and have approved by Council's Traffic Engineer a detailed construction traffic management plan. The plan shall demonstrate how construction and delivery vehicles will access the development site during the demolition and construction phase of the development. The plan must also detail any proposed changes to the existing Bus Stop located in Bream Street and partially fronting the development site.

All traffic associated with the subject development shall comply with the terms of the approved construction traffic management plan.

37. The minimum clear distance from the existing footpath in Bream Street to the underside of any new / proposed awning shall be 3.00 metres. The plans submitted for the construction certificate shall demonstrate compliance with this requirement.
38. The minimum clear distance from the existing footpath in Bream Street to the underside of any new / proposed under awning sign shall be 2.60 metres. The plans submitted for the construction certificate shall demonstrate compliance with this requirement.
39. All new awnings shall be set back a minimum of 600mm from the face of kerb. The plans submitted for the construction certificate shall demonstrate compliance with this requirement.
40. Upon completion of the construction of any new awning, certification of the structural adequacy of the awning must be provided to the Council.

The following conditions are applied to provide adequate provisions for future civil works in the road reserve:

41. The Council's Development Engineer has determined that, as a guide, the design alignment level (concrete/paved/tiled level) at the property boundary for driveways, access ramps and pathways or the like, shall generally be:
- Bream Street frontage: Match the back of the existing footpath along the full site frontage.

- Dolphin Lane frontage: These levels may vary following design of the reconstructed laneway, however, as a guide the alignment level for the new driveway will be approximately 100mm above the edge of the existing laneway.

The design alignment level at the property boundary must be strictly adhered to.

42. The design alignment levels (concrete/paved/tiled level) issued by Council and their relationship to the roadway/kerb/footpath must be indicated on the building plans for the construction certificate.
43. The above alignment levels and the site inspection by Council's Development Engineer has been issued at a prescribed fee of \$938.78 calculated at \$44.00 (inclusive of GST) per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.
44. The top of footings of any structures constructed on the boundary alignment must be at least 150mm below the alignment level as specified for the vehicular access. This condition has been attached to accommodate future footpath construction at this location.

The following conditions are applied to provide adequate consideration for service authority assets:

45. A public utility impact assessment must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.
46. The applicant must meet the full cost for telecommunication companies, gas providers, Energy Australia and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.
47. Documentary evidence from the relevant public utility authorities confirming that their requirements have been satisfied, must be submitted to the certifying authority prior to a construction certificate being issued for the development.
48. Any electricity substation required for the site as a consequence of this development shall be located within the site and shall be screened from view. The proposed location and elevation shall be shown on all detailed landscape drawings and specifications. The applicant must liaise with Energy Australia prior to lodging the construction certificate to determine whether or not an electricity substation is required for the development.
49. The applicant shall meet the full cost of the overhead power lines and telecommunication cables located in the vicinity of the development site to be relocated underground and all redundant power poles to be removed. The applicant shall liaise directly with the relevant service utility authorities to organise for the wires/cables to be relocated. All wires cables must be relocated underground to the satisfaction of the relevant service utility authority prior to the issuing of an occupation certificate for the development.

All electricity and telecommunication cables/wires to service the development site across the road carriageway and/or the Council nature reserve (footpath area) are to be located underground to the satisfaction of the relevant service utility authority

The following conditions are applied to provide adequate provisions for drainage and associated infrastructure:

Protection from flooding

50. The floor level of all habitable and storage areas (including the garbage room and any portions of the electrical and utilities cupboards that may be adversely affected by floodwater) shall be a minimum of 300mm above the calculated 1 in 100 year flood level for this site or suitably protected from stormwater inundation up to the subject level. Based on the flood study by Pyramid Consulting Engineers dated February 2007 the calculated 1 in 100 year flood level is RL 16.69 metres A.H.D and therefore 300mm above this level is R.L. 16.99 metres A.H.D. The Construction Certificate Application must demonstrate compliance with this requirement.
51. The proposed internal driveway (and any other openings into the basement carpark from Dolphin Lane) must be designed with a high point at least 300mm above determined 1 in 100 year flood level (i.e. a high point of R.L 16.99 metres A.H.D) and in such a manner as to restrict stormwater inundation of the carpark area and surrounds. The plans submitted for the construction certificate shall demonstrate compliance with this requirement.

Further, the three car spaces proposed at the rear of the site adjacent to the entry to the basement carpark shall be located a minimum of 300mm above the determined 1 in 100 year flood level (i.e. at or above R.L 16.99 metres A.H.D) or suitably protected from stormwater inundation up to the subject level.
52. All windows, vents and other openings into the basement carpark (excluding the driveway opening) must be located at least 300 mm above the determined 1 in 100 year flood level, (i.e. at or above R.L 16.99 metres A.H.D) or suitably protected up to this level. The plans submitted for the construction certificate shall demonstrate compliance with this requirement.
53. All footings shall be suitably designed to ensure that they will not be adversely affected by stormwater/floodwater.
54. All structural walls on the ground floor level shall be designed to **structurally** withstand hydrostatic pressure/stormwater inundation from floodwater during the probable maximum flood (PMF) event as defined in the Floodplain Development Manual (New South Wales Government, April 2005). Structural Engineering certification confirming that this condition has been complied with shall be submitted to the certifying authority prior to the issuing of a construction certificate.

It is noted that this requirement does not necessitate the development being flood proof/water tight up to the PMF event, rather the requirement is to ensure that the development will not be **structurally** damaged in manner that could endanger lives during the PMF event.

Internal and External Drainage works

55. All stormwater run-off naturally draining to the site must be collected and discharged through this property's stormwater system. Such drainage must, if necessary, be constructed prior to the commencement of building work.
56. All site stormwater must be discharged (by gravity) to either:
- a) The underground drainage system in Dolphin Street, via the new drainage system to be constructed in Dolphin Lane; OR
 - b) A suitably sized infiltration system (subject to geotechnical investigation confirming that the ground conditions are suitable for an infiltration system).

Notes: (i) Discharge to the underground drainage system in Dolphin Street will necessitate the applicant meeting all costs associated with constructing a new kerb inlet pit (in general accordance with Council's standard drawing SD7a) in the lowest point of Dolphin Lane and extending Council's underground drainage system up from Dolphin Street to connect into the new kerb inlet pit. Given that the low point pit will be located on the southern side of Dolphin Lane, stormwater discharge from the site may be taken to the kerb and gutter on the northern side of Dolphin Lane and permitted to flow across the lane into the new kerb inlet pit.

(ii) With the exception of the site discharge pipe, all new pipelines constructed within council's reserve shall be minimum 375 mm diameter, spigot and socket rubber ringed jointed, steel reinforced concrete pipeline (RRRCP). Prior to backfilling, all pipelines in council's reserve shall be inspected and approved by the Hydraulic Engineer certifying the works and Council.

57. With the exception of the site discharge pipe, all new pipelines constructed within council's road reserve or park shall be minimum 375 mm diameter, spigot and socket rubber ringed jointed, steel reinforced concrete pipeline (RRRCP). Prior to backfilling, all pipelines in council's road reserve or park shall be inspected and approved by the Hydraulic Engineer certifying the works and Council.
58. A work-as-executed plan prepared and signed by the hydraulic engineer or a registered surveyor, must be submitted to Council prior to the issuing of an occupation certificate, detailing the as constructed details for all works within Council's road reserve (including detailed levels).
59. All drainage details (for the external drainage works) shall be prepared by a suitably qualified hydraulic consultant who shall, at the completion of the works, certify that the drainage works have been constructed in accordance with the approved drainage plans and relevant standards. The plans and specifications for all works on Council property shall be submitted to and approval by Council prior to the issuing of a construction certificate.
60. Should stormwater be discharged to Council's underground drainage system, on-site detention must be provided to ensure that the maximum discharge from the above site is not to exceed that which would occur during a 1 in 10 year storm of 1 hour duration for the existing site conditions. All other stormwater run-off from the above site for all storms up to the 1 in 20 year storm is to be retained on the site for gradual release to the kerb and gutter or

drainage system as required by the Council. Provision is to be made for satisfactory overland flow should a storm in excess of the above parameters occur.

Should no formal overland escape route be provided for storms greater than the design storm, the on-site detention system shall be sized for the 1 in 100 year storm event.

For small areas up to 0.5 hectares, determination of the required cumulative storage must be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Run-off Volume 1, 1987 Edition.

Where possible the detention tank must have an open base to infiltrate stormwater to the groundwater. Note that the ground water and any rock stratum has to be a minimum of 2.0 metres below the base of the tank.

61. Should stormwater be discharged to an infiltration system, the infiltration area shall be sized for all storm events up to the 1 in 20 year storm event with provision for a formal overland flow path to Council's Street drainage system.

Should no formal overland escape route be provided for storms greater than the design storm, the infiltration system shall be sized for the 1 in 100 year storm event.

62. Any Infiltration systems/Absorption Trenches must be designed in accordance with "Section 8.5 ABSORPTION TRENCHES" as stipulated in Randwick City Council's Private Stormwater Code.
63. The detention area/infiltration system must be regularly cleaned and maintained to ensure it functions as required by the design.
64. Any onsite detention/infiltration systems shall be located in areas to be dedicated as common property.
65. The maximum depth of ponding in any above ground detention areas (and/or infiltration systems with above ground storage) shall be as follows:
- a) 150mm in uncovered parking areas (with an isolated maximum depth of 200mm permissible at the low point pit within the detention area.
 - b) 300mm in landscaped areas (where child proof fencing is not provided around the outside of the detention area and sides slopes are steeper than 1 in 10)
 - c) 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10.
 - d) 1200mm in landscaped areas where a childproof fence is provided around the outside of the detention area

Notes:

- It is noted that above ground storage will not be permitted in any area which may be used for storage of goods.
- Mulch/bark must not be used in onsite detention areas

66. Any above ground stormwater detention areas (and/or infiltration systems with above ground storage) must be suitably signposted where required, warning people of the maximum flood level.

67. The floor level of all habitable and storage areas adjacent to the detention area (and/or infiltration systems with above ground storage) must be a minimum of 300mm above the maximum water level in the detention area for the design storm or alternately a permanent 300mm high water proof barrier is to be constructed.

(In this regard, it must be noted that this condition must not result in any increase in the heights or levels of the building. Any variations to the heights or levels of the building will require a new or amended development consent from the Council prior to a construction certificate being issued for the development).

68. A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
69. A 'V' drain is to be constructed along the perimeter of the property, where required, to direct all stormwater to the detention/infiltration area.
70. A reflux valve shall be provided (within the site) over any pipelines discharging from the site into Council's underground drainage system to ensure that stormwater from Council drainage system does not surcharge back into the site stormwater system.
71. Should a pump system be required to drain any portion of the site the system must be designed with a minimum of two pumps being installed, connected in parallel (with each pump capable of discharging at the permissible discharge rate) and connected to a control board so that each pump will operate alternatively. The pump wet well shall be sized for the 1 in 100 year, 2 hour storm assuming both pumps are not working.

The pump system must also be designed and installed strictly in accordance with "Section 8.4 PUMP SYSTEMS" as stipulated in Randwick City Council's Private Stormwater Code.

72. A sediment/silt arrester pit must be provided:-
- a) within the site at or near the street boundary prior to the site stormwater discharging by gravity to the kerb/street drainage system; and
 - b) prior to stormwater discharging into any absorption/infiltration system.

The sediment/silt arrester pit shall be constructed in accordance with the following requirements:-

- The base of the pit located a minimum 300mm under the invert level of the outlet pipe.
- The pit constructed from cast in-situ concrete, precast concrete or double brick.
- 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/s

(Mascot GMS multipurpose filter screen or equivalent).

- The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system.
- A child proof and corrosion resistant fastening system provided for the access grate (e.g. spring loaded j-bolts or similar).
- A sign adjacent to the pit stating:

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

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

73. One covered car washing bay shall be provided for this development.
- a) The car washing bay must be drained to sewer to the requirements of Sydney Water and proof of compliance is to be submitted to the certifying authority, prior to an occupation certificate being issued for the proposed development.
 - b) The car washing bay must be located outside any required/approved stormwater detention system.
 - c) The car washing bay may be located within the visitor parking spaces provided they are signposted with *'Exclusive Carwash Bay Use Sat 2:00pm – 5:00pm and Sunday 10:00am – 2:00pm, Visitor parking at other times'*
 - d) The car washing bay must be constructed with a minimum 20mm bund around the perimeter of the car washing bays (or equivalent)
 - e) A water tap shall be located adjacent to the car washing bay.
74. Prior to the issuing of an occupation certificate, the applicant shall submit to Council, a works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced Hydraulic Engineer. The works-as-executed drainage plan shall be to the satisfaction of the Principal Certifying Authority (PCA) and shall include the following details:
- a) The location of the detention basin with finished surface levels;
 - b) Finished site contours at 0.2 metre intervals;
 - c) Volume of storage available in the detention areas;
 - d) The location, diameter, gradient and material (i.e PVC, RC etc) of all stormwater pipes;
 - e) The orifice size(s) (if applicable);
 - f) Details of any infiltration/absorption systems; and
 - g) Details of any pumping systems installed (including wet well volumes).
75. Prior to the issuing of an occupation certificate, 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 the conditions of 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.

76. As the above site may encounter groundwater/seepage water within the depth of the basement excavation the basement carpark or similar structures are to be suitably tanked and waterproofed. A Structural Engineer\Geotechnical Engineer shall certify the tanking & waterproofing has been carried out to an acceptable standard, to the satisfaction of the certifying authority. A copy of the certification is to be forwarded to Council.

Notes:-

- a) Any subsoil drainage (from planter boxes etc) is to be disposed of within the site and is not to be discharged to Council's kerb & gutter and/or underground drainage system.
- b) Adequate provision is to be made for the ground water to drain around the basement carpark (to ensure that the basement will not dam or slow the movement of the ground water through the development site). Seepage water must **not** be drained from the site.

The following conditions are applied to provide adequate provisions for waste management:

77. The residential waste storage area/s shall be sized to contain a total of 12 x 240 litre bins (6 garbage bins & 6 recycle bins) whilst providing satisfactory access to these bins. The commercial waste storage area/s shall be sized to contain a total of 8 x 240 litre bins (4 garbage bins & 4 recycle bins) whilst providing satisfactory access to these bins.
78. The waste storage areas are to be provided with a tap and hose and the floor is to be graded and drained to the sewer to the requirements of Sydney Water.
79. The waste storage areas shall be clearly signposted.
80. Prior to the issuing of a construction certificate for the proposed development the applicant is to submit to Council and have approved by Council's Manager of Waste Services, a Waste Management Plan detailing waste and recycling storage and disposal for the development site.

The plan shall detail the type and quantity of waste to be generated by the development; demolition waste; construction waste; materials to be re-used or recycled; facilities/procedures for the storage, collection recycling & disposal of waste and the on-going management of waste.

The following conditions are applied to satisfy the provisions of Council's environmental plans, policies and codes for subdivision works:

81. 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 (in conjunction with registration of the plan of strata subdivision) to ensure that the onsite detention system is maintained and that no works which could affect the design function of the detention 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. If new linen plans are being prepared for the site, the plans shall indicate the location and dimensions of the detention/infiltration areas.
 - c. 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.
82. The applicant shall create suitable right of carriageway, easements for access, services and internal stormwater lines, as required. The applicant shall be advised that the minimum easement width for any internal stormwater line is 0.9 metres.
83. A Section 73 Compliance Certificate under the Sydney water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.

Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Notice must be issued to the Principal Certifying Authority prior to the construction certificate being issued.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the plan of strata subdivision.

84. All conditions of development consent must be satisfied and all public roads and reserves must be satisfactorily restored prior to endorsement of the subdivision plans.
85. The applicant shall provide Council with a survey plan of the property prior to endorsement of the subdivision plans.

The following conditions are applied to provide adequate provisions for landscaping and to maintain reasonable levels of environmental amenity:

86. The landscaped areas shall be the subject of detailed landscape drawings and specifications, which are to be submitted to, and approved by, the certifying authority, prior to the issue of a construction certificate. The landscape drawings and specifications are to be prepared by a qualified Landscape Architect who is eligible for membership with the Australian Institute of Landscape Architects (AILA). The documentation is to include:
- a. A site plan at an appropriate scale showing existing site boundaries, existing trees within the property (clearly identified as being retained or removed), existing street trees (clearly identified as being retained or removed), features on adjoining sites within 6 metres of the common property boundary (buildings, trees, other structures etc),

council's footway, existing and proposed ground levels shown as spot heights and/or contours over the site, at site boundaries, and at the base of the tree/s to be retained, proposed building envelope, proposed areas of pavement, and proposed landscaped areas.

The plan shall clearly show the position, canopy spread (location of dripline), trunk diameter, height and names of all existing trees upon the site and adjoining sites within 6 metres of the common property boundary which are likely to be affected by the development.

- b. A planting plan at a scale of 1:100 or 1:200 indicating the location of all proposed planting and existing trees to be retained. All plants are to be drawn at their mature size with a dense planting of shrubs, accent plants and ground covers within all garden beds so that a continuous planted cover is achieved. Plant spacings are to be clearly indicated for all accent and groundcovers.
- c. A planting schedule listing all plants by botanic & common names, plant numbers, plant spacings for groundcovers and accent planting, pot sizes, the estimated size of the plant at maturity (height & spread) and proposed staking methods when applicable.
- d. Additional notation showing soil and mulch details, irrigation details, edging, paving, fencing details, surface finishes, retaining wall details, and any other landscape elements in sufficient detail to fully describe the proposed landscape works.
- e. Position of existing and proposed site services including water, gas, electricity, sewer, stormwater, etc.
- f. Sectional elevations through the site showing the existing and proposed groundlines, building elevations, and mature height of proposed planting.
- g. The landscape plan shall show suitable screen planting along the southern site boundary to effectively screen the development site from the adjacent reserve and playground. The landscape plan shall also include specimens which will attain a size which will afford a reasonable degree of screening and privacy between this site and adjoining properties around the perimeter of the site, within those areas nominated as 'deep soil'.
- h. All planter boxes and garden beds constructed on slab must have a minimum soil depth of 600mm and all lawn areas must have a minimum soil depth of 300mm. Planter box details shall be submitted with the detailed landscape plans.
- i. The plan shall respect the prevailing coastal influences and the coast's special design considerations and requirements, and shall be designed accordingly. Generally, species selection shall be restricted to local indigenous coastal species, that require minimal watering once established or species with water needs that match rainfall and drainage conditions.
- j. Location of easements within the site and upon adjacent sites (if any).
- k. Provision of an irrigation system to ensure the long term sustainability

of plants in balcony planters.

87. The landscaping shall be installed in accordance with the approved documentation prior to the issue of a final occupation certificate and shall be maintained in accordance with those plans.

Documentary evidence is to be obtained from a suitably qualified Landscape Architect and submitted to the principal certifying authority (PCA) (and the Council, if the Council is not the PCA) prior to the issuing of a final occupation certificate which confirms that the landscaping works have been completed in accordance with the approved landscaping plans and relevant conditions of development consent, to the satisfaction of the PCA.

88. To ensure satisfactory maintenance of the landscaped areas, an automatic irrigation system shall be installed throughout all the landscaped areas. Such system shall provide full coverage to all the landscaped areas with no overspray onto driveways and pathways.

Details of the automatic irrigation system shall be shown on the detailed landscape plans and specifications. The system shall comply with all Sydney Water requirements, and relevant Australian Standards.

89. Any substation required shall be screened from view. The proposed location and elevation shall be shown on all detailed landscape drawings and specifications.

90. All detention tanks and below ground stormwater infiltration systems located within the landscaped areas shall have a minimum soil cover of 600mm to ensure sufficient soil depth to permit the establishment of landscaping on top of these services as stipulated by these conditions of development consent.

All stormwater documentation submitted for the construction certificate application shall show the top of the detention tanks and stormwater infiltration devices being 600mm below the finished ground level of the landscaped areas.

91. Landscaped areas must contain a predominance of species that require minimal watering once established or species with water needs that match rainfall and drainage conditions.

Tree Management

92. Permission is granted for the removal of those trees located within the development site and falling within the area occupied by the approved works, (this includes all trees on the development site). The applicant shall be required to ensure the retention and long term health of all trees located on adjoining properties adjacent to the proposed development. As a general guide there shall be minimal excavation or root pruning within the dripline/s of the subject tree/s.

Tree Protection Measures

93. In order to ensure the retention and health of the *Persea americana* (Avocado Tree) tree located within 8 Bream Street and adjacent to the common boundary with the development site, the following measures are to be undertaken:

- a. All detailed architectural, building, demolition, engineering (structural, stormwater & drainage, services), and landscape documentation submitted for the construction certificate application shall show the retention of the existing tree specimen with the position of the tree trunk and full diameter of the tree canopy clearly shown on all drawings.
- b. Detailed architectural, building, demolition, engineering (structural, stormwater & drainage, services), and landscape documentation submitted for the construction certificate application shall show no alteration in the existing soil levels or the location of any structures, services, footings, paving, detention tanks, stormwater infiltration systems, pipes, cutting or battering of the existing soil profile, or any excavations within the extent of the tree's dripline.
- c. There is to be no pruning of the tree without the prior written consent of Council. Any approval for pruning shall be conditional upon the works being undertaken by a suitably qualified contractor.
- d. The tree is to be physically protected by the installation of protective fencing around the tree using 1.8 metre high steel mesh/chainwire fencing. This fencing shall be located within the development site around the extent of the dripline, (as a minimum).

This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed.

- e. Within this zone there is to be no storage of materials or machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of in the area, no stockpiling of soil or rubble, or any works listed in Point b.

Any works required within this zone (only as approved on the construction certificate) shall be under the direction of, and to the satisfaction of, a suitably qualified Arborist.

- f. Any excavations required for footings, structures, retaining walls, basement car parks, services, pipes, detention tanks, stormwater infiltration systems, paving etc within 1 metre of the extent of the dripline of the tree shall be undertaken by hand and under the direction of, and to the satisfaction of, a suitably qualified Arborist with all roots being cleanly cut.
- g. The installation of woodchip mulch to a depth of 75mm within the fenced off protection area as described in Point c.
- h. Watering of the tree (within the fenced off area) three times a week for the duration of the period of the refundable deposit described in Point i.
- i. The erection of signage on the fence with the following words clearly displayed: "TREE PROTECTION ZONE", "DO NOT ENTER".

94. Conditional upon the applicant proposing works within the dripline of the *Persea americanna* (Avocado Tree) tree located within 8 Bream Street, and prior to the issuing of a Construction Certificate, the applicant must submit to the Certifying Authority and Council for approval, and have approved, a

detailed Arborists Report (prepared by a consultant with a minimum qualification of Certificate 4 in Arboriculture) which includes site investigations such as root mapping and relevant recommendations to ensure the tree's preservation during the course of the proposed works.

The following conditions are applied to ensure that the development satisfies the provisions of the *Environmental Planning and Assessment Act 1979* and Regulations:

95. 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 legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of `on-the-spot` penalty infringements or service of a notice and order by Council.

96. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA), in accordance with Clause 98 of the *Environmental Planning and Assessment Regulation 2000*.

97. **Prior to the commencement of any building works, a construction certificate must be obtained** from Council's Building Certification Services or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

A copy of the construction certificate, the approved plans & specifications and development 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.

98. **Prior to the commencement of any building works**, the person having the benefit of the development consent must:-

- i) appoint a *Principal Certifying Authority* for the building work, and
- ii) appoint a *principal contractor* for the building work, or in relation to residential building work, obtain an *owner-builder* permit in accordance with the requirements of the Home Building Act 1989, and notify the *Principal Certifying Authority* and Council accordingly in writing, and
- iii) unless the person having the benefit of the consent is the *principal contractor* (i.e. *owner-builder*), notify the *principal contractor* of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*, and
- iv) give at least two days notice to the Council, in writing, of the persons intention to commence building works.

In relation to residential building work, the principal contractor must be the holder of a contractor licence, in accordance with the provisions of the Home Building Act 1989.

99. The building works must be inspected by the *Principal Certifying Authority* (or another *certifying authority* if the *Principal Certifying Authority* agrees), in

accordance with sections 109 E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

The *Principal Certifying Authority* must specify the relevant stages of construction to be inspected in accordance with section 81A (2) (b1) (ii) of the Environmental Planning & Assessment Regulation 2000 and a satisfactory inspection must be carried out, to the satisfaction of the *Principal Certifying Authority*, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

Documentary evidence of the building inspections carried out and details of compliance with Council's consent is to be maintained by the *Principal Certifying Authority*. Details of *critical stage inspections* carried out and copies of certification relied upon must also be forwarded to Council with the *occupation certificate*.

The *principal contractor* or *owner-builder* (as applicable) must ensure that the required critical stage and other inspections, as specified in the *Principal Certifying Authority's* "Notice of Critical Stage Inspections", are carried out to the satisfaction of the *Principal Certifying Authority* and at least 48 hours notice (excluding weekends and public holidays) is to be given to the *Principal Certifying Authority*, to carry out the required inspection, before carrying out any further works.

100. 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".
101. 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.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The requirements of the Environmental Planning & Assessment Act 1979 and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.
102. **Prior to the issuing of an interim or final occupation certificate**, a statement is required to be obtained from the Principal Certifying Authority, which confirms that the development is not inconsistent with the development consent and the relevant conditions of development consent have been satisfied.

Details of *critical stage* inspections carried out by the principal certifying authority together with any other certification relied upon must also be provided to Council with the occupation certificate.

103. In accordance with clause 98 of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition, that in the case of residential building work, a contract of insurance must be obtained and in force, in accordance with the provisions of the Home Building Act 1989.

Where the work is to be done by a licensed contractor, excavation or building work must not be carried out unless the Principal Certifying Authority (PCA):

- has been informed in writing of the licensee's name and contractor number; and
- is satisfied that the licensee has complied with the insurance requirements of Part 6 of the *Home Building Act 1989*, or

Where the work to be done by any other person (i.e. an owner-builder), excavation or building work must not be carried out unless the Principal Certifying Authority:

- has been informed of the person's name and *owner-builder* permit number, or
- has been given a declaration, signed by the owner of the land that states that the market cost of the labour and materials involved in the work does not exceed \$5,000.

Details of the principal building contractor and compliance with the provisions of the *Home Building Act 1989* (i.e. *Details of the principal licensed building contractor and a copy of the Certificate of Insurance*) are to be submitted to Council **prior to the commencement of works**, with the notice of appointment of the PCA / notice of intention to commence building work.

104. A single and complete **Fire Safety Certificate**, which encompasses all of the essential fire safety measures contained in the *fire safety schedule*, must be obtained prior to issuing an Occupation Certificate and be submitted to Council, in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000*. A copy of the Fire Safety Certificate must be displayed in the building entrance/foyer and a copy of the Fire Safety Certificate must also be forwarded to the NSW Fire Brigades.
105. The required Long Service Levy payment, under the Building and Construction Industry Long Service Payments Act 1986, is to be forwarded to the Long Service Levy Corporation or the Council, prior to the issuing of a Construction Certificate, 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.

106. As a minimum, the building is required to be provided with a smoke alarm system complying with Clause 3 of Specification E2.2a of the Building Code of Australia or a smoke detection system complying with Clause 4 of Specification E2.2a of the Building Code of Australia or a combination of a smoke alarm system within the sole-occupancy units and a smoke detection

system in areas not within the sole-occupancy units. The smoke detectors located within the stairway, corridors or the like must be interconnected.

Additional requirements regarding the design and installation of the smoke detection and alarm system may be specified in the construction certificate for the development.

The following group of conditions have been applied to ensure the structural adequacy and integrity of the proposed building and adjacent premises:

107. Documentary evidence prepared by a suitably qualified *professional geotechnical engineer* shall be submitted to the certifying authority **prior to the issuing of a construction certificate**, certifying the suitability and stability of the site for the proposed building and certifying the suitability and adequacy of the proposed design and construction of the building for the site.

108. A report shall be prepared by a *professional engineer* and submitted to the certifying authority **prior to the issuing of a construction certificate**, detailing the proposed methods of excavation, shoring or pile construction, including details of potential vibration emissions. The report, must demonstrate the suitability of the proposed methods of construction to overcome any potential damage to nearby land/premises.

Any practices or procedures specified in the engineer's report in relation to the avoidance or minimisation of structural damage to nearby premises, must be fully complied with and incorporated into the documentation for the **construction certificate**.

A copy of the engineers report is to be submitted to the Council, if the Council is not the certifying authority.

109. Driven type piles/shoring must not be provided unless a geotechnical engineer's report is submitted to the certifying authority, **prior to the issuing of a construction certificate**, which demonstrates that damage should not occur to any adjoining premises and public place as a result of the works.

Any practices or recommendations specified in the engineer's report in relation to the avoidance or minimisation of structural damage to nearby premises or land must be fully complied with and incorporated into the documentation for the **construction certificate**.

110. A dilapidation report prepared by a *professional engineer* or suitably qualified and experienced building surveyor shall be submitted to the certifying authority **prior to the commencement of demolition, excavation or building works** detailing the current condition and status of all buildings, including ancillary structures (*i.e. including dwellings, residential flat buildings, commercial/industrial building, garages, carports, verandah's, fences, retaining walls, swimming pools and driveways etc.*) located upon all of the premises adjoining the subject site.

The report is to be supported with photographic evidence of the status and condition of the buildings and a copy of the report must also be forwarded to the Council and to the owners of each of the abovestated premises, **prior to the commencement of any works**.

111. The installation of ground or rock anchors underneath any adjoining premises including (a public roadway or public place) must not be carried out without

specific written consent of the owners of the affected adjoining premises (including the Council if bounding a public place) and details of compliance must be provided to the certifying authority **prior to the commencement of any excavation or building works.**

112. A Certificate prepared by a *professional engineer* shall be submitted to the certifying authority (*and the Council, if the Council is not the certifying authority*) **prior to issuing an occupation certificate**, which certifies that the building works satisfy the relevant structural design requirements of the Building Code of Australia.

The following conditions are applied to ensure that the development satisfies relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

113. The demolition work, removal, storage, handling and disposal of building products and materials must be carried out in accordance with the relevant requirements of WorkCover NSW, the NSW Department of Environment & Conservation (formerly the Environment Protection Authority) and Randwick City Council policies and conditions, including:

- Occupational Health and Safety Act 2000
- Occupational Health and Safety (Hazardous Substances) Regulation 2001
- Occupational Health and Safety (Asbestos Removal Work) Regulation 2001
- WorkCover NSW Code of Practice for the Safe Removal of Asbestos
- Australian Standard 2601 (2001) – Demolition of Structures
- The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 1996.
- Relevant Department of Environment & Conservation (DEC) / Environment Protection Authority (EPA) and WorkCover NSW Guidelines.
- Randwick City Council Asbestos Policy (adopted 13 September 2005)

A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.

114. 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 are to 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.

Retaining walls, shoring, or piling must be designed and installed in accordance with appropriate professional standards and the relevant requirements of the Building Code of Australia and Australian Standards. Details of proposed retaining walls, shoring or piling are to be submitted to and approved by the Principal Certifying Authority for the development prior to commencing such excavations or works.

115. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must:
- preserve and protect the building /s on the adjoining land from damage; and
 - if necessary, underpin and support the building and excavation in an approved manner; and
 - at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land (including a public road or public place), give notice of the intention to do so to the owner of the adjoining land. Particulars of the excavation are to be provided to the owner of the adjoining land and also the owner of the land where the building is being erected or demolished.
116. Except with the written approval of Council's Manager of Health, Building & Regulatory Services, all building, demolition and associated site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and (except as detailed below) between 8.00am to 5.00pm on Saturdays.
- All building, demolition and associated site works are strictly prohibited on Sundays, Public Holidays and also on Saturdays adjacent to a Public Holiday.
- In addition, the use of any rock excavation machinery or any mechanical pile drivers or the like is restricted to the hours of 8.00am to 5.00pm (maximum) on Monday to Friday only, to minimise the noise levels during construction and loss of amenity to nearby residents.
117. 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 provisions of the *Protection of the Environment Operations Act 1997* must be satisfied at all times.
118. Noise and vibration from any rock excavation machinery and pile drivers (or the like) must be minimised by using appropriate plant and equipment and silencers and a construction noise and vibration minimisation strategy, prepared by a suitably qualified consultant is to be implemented during the works, to the satisfaction of the Principal Certifying Authority.
119. A report prepared by a suitably qualified and experienced consultant in acoustics/vibration shall be submitted to the Principal Certifying Authority (PCA) and a copy is to be provided to Council **upon commencement of works**, certifying that noise and vibration emissions from the construction of the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, Councils conditions of consent and relevant Standards relating to noise and vibration. In support of the above, it is necessary to submit all relevant readings and calculations made.

Any recommendations and requirements contained in the report are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to the PCA and Council.

120. A Registered Surveyor's check survey certificate or *compliance certificate* is to 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*), detailing compliance with Council's approval at the following stage/s of construction:
- Prior to construction of the first completed floor/floor slab (prior to pouring of concrete), showing the area of land, building and boundary setbacks and verifying that the building is being construction at the approved levels.
 - On completion of the erection of the building showing the area of the land, the position of the building and boundary setbacks and verifying the building has been constructed at the approved levels.
121. 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.
122. Public safety and convenience must be maintained at all times during demolition, excavation and construction works.
- The roadway, footpath and nature strip must be maintained in a good, safe condition and free from any obstructions, materials, soils or debris at all times. Any damage caused to the road, footway or nature strip must be repaired immediately, to the satisfaction of Council.
- A Road Opening Permit must be obtained from the Council and other relevant Authorities prior to excavating or opening-up the road or footway for services or the like.
123. Building materials, sand, soil, waste materials or construction equipment must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.
- 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, unless the waste container is located upon the road in accordance with the Roads & Traffic Authority Guidelines and Requirements, and the container is exempt from an approval under Development Control Plan for Exempt & Complying Development and Council's Local Approvals Policy. Applications to place a waste container in a public place can be made to Council's Building Services section.
124. A Construction Site Management Plan is to be developed and implemented prior to the commencement of demolition, excavation or building works. The 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;
- construction noise and vibration management;
- construction traffic management provisions.

The site management measures are to be implemented prior to the commencement of any site works and be maintained throughout the works, to maintain reasonable levels of public health, safety and convenience, to the satisfaction of Council. A copy of the approved Construction Site Management Plan must be maintained on site and be made available to Council officers upon request.

125. 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.
- Revegetation of disturbed areas.

126. During construction stages, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban Stormwater – Soils and Construction, published by the NSW Department of Housing,

Details of the proposed sediment control measures are to be detailed in a *site water management plan* and must be submitted to and approved by the principal certifying authority **prior to the commencement of any site works**. The sediment and erosion control measures must be implemented prior to the commencement of any site works and be maintained throughout construction. A copy of the approved details must be forwarded to the Council and a copy is to be maintained on-site and be made available to Council officers upon request.

Details of proposed sediment and erosion control measures shall include; a site plan; indicating the slope of land, access points & access control measures, location and type of sediment & erosion controls, location of existing vegetation to be retained, location of material stockpiles and storage areas, location of building operations and equipment, methods of sediment

control, details of drainage systems and details of existing and proposed vegetation.

Stockpiles of soil, sand, aggregate or other materials must not be located on any footpath, roadway, nature strip, drainage line or any public place and the stockpiles must be protected with adequate sediment control measures.

Building operations such as brick cutting, washing tools or equipment and mixing mortar are not permitted on public footpaths, roadways, nature strips, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system.

A warning sign for soil and water management must be displayed in a prominent position on the building site, visible to both the public and site workers. The sign must be displayed throughout the construction period. Copies of a suitable warning sign are available at Council's Customer Service Centre for a nominal fee.

127. The applicant/builder is required to hold Public Liability Insurance, with a minimum liability of \$5 million and a copy of the Insurance cover is to be provided to Council.
128. Public safety must be maintained at all times and public access to the site and building works, materials and equipment on the site is to be restricted.

A temporary safety fence is to be provided to protect the public, located to the perimeter of the site. Temporary fences are to have a minimum height of 1.8 metres and be constructed of cyclone wire fencing, with geotextile fabric attached to the inside of the fence to provide dust control, or other material approved by Council.

If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or the building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected sufficiently to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises.

The public place adjacent to the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place and any such hoarding, fence or awning is to be removed upon completion of the work.

Temporary fences and hoardings are to be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

The public safety provisions and temporary fences must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

If it is proposed to locate any site fencing, hoardings or amenities upon any part of the footpath, nature strip or any public place, the written consent from Council's Building Services section must be obtained beforehand and detailed

plans are to be submitted to Council for consideration, together with payment of the weekly charge in accordance with Council's adopted fees and charges.

129. A 'B Class' overhead type hoarding is required is be provided to protect the public, located adjacent to the development, prior to the commencement of any works on the site which comprise:-

- any works or hoisting of materials over a public footway or adjoining premises, or
- any building or demolition works on buildings which are over 7.5m in height and located within 3.6 metres of the street alignment.

The public safety provisions and temporary fences must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

If it is proposed to locate any hoardings, site fencing or amenities upon a footpath or public place, the written consent from Council's Building Services section must be obtained beforehand and detailed plans are to be submitted to Council for consideration, together with payment of the weekly charge in accordance with Council's adopted fees and charges.

130. A local approval application must be submitted to and be approved by Council's Building Services section prior to commencing any of the following activities upon any part of the footpath, road or 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 in a public place.

The following conditions are applied to maintain reasonable levels of public health, amenity and safety:

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

- Occupational Health and Safety Act 2000
- Occupational Health and Safety (Hazardous Substances) Regulation 2001
- Occupational Health and Safety (Asbestos Removal Work) Regulation 2001
- WorkCover NSW Code of Practice for the Safe Removal of Asbestos
- Australian Standard 2601 (2001) – Demolition of Structures
- The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 1996.
- Relevant Department of Environment & Conservation (DEC) / Environment Protection Authority (EPA) and WorkCover NSW Guidelines.

A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.

132. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures.

The Work Plan must include the following information (as applicable):

- The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor
- Details of hazardous materials, including asbestos
- Method/s of demolition and removal of asbestos
- Measures and processes to be implemented to ensure the health & safety of workers and community
- Measures to be implemented to minimise any airborne asbestos and dust
- Methods and location of disposal of any asbestos or other hazardous materials
- Other relevant details, measures and requirements to be implemented as identified in the Asbestos Survey
- Date the demolition and removal of asbestos will commence

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

Note it is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.

133. A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 200 m² 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.
134. On demolition sites involving the removal of asbestos, a professionally manufactured 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. The sign shall measure not less than 400mm x 300mm and the sign is to be installed prior to demolition work commencing and is to remain in place until such time as all asbestos has been safely removed from the site.
135. 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 1996.

Asbestos waste must be disposed of at an approved waste disposal depot (refer to the DEC or Waste Service NSW for details of sites). Copies of all receipts detailing method and location of disposal must be maintained on site and be provided to Council officers upon request, as evidence of correct disposal.

136. A Certificate or Statement, prepared by a suitably qualified person (ie an occupational hygienist, licensed asbestos removal contractor, building consultant, architect or experienced licensed building contractor), must be provided to Council upon completion of the works (prior to an Occupation Certificate being issued), which confirms that the relevant requirements

contained in the Asbestos Survey and conditions of consent, in relation to the safe removal and disposal of asbestos, have been satisfied.

The following conditions are applied to provide access and facilities for people with disabilities:

137. Access and toilet facilities for people with a disability are to be provided, in accordance with Parts D3 & F2 of the Building Code of Australia and AS1428.1, which must be available at all times the building is occupied and details are to be included in the **construction certificate**.

ADVISORY MATTERS:

1. The applicant is advised that the Construction Certificate plans and specification must comply with the provisions of the Building Code of Australia (BCA).

Details of compliance with the relevant provisions of the Building Code of Australia and conditions of development consent are to be provided in the plans and specifications for the construction certificate.

The applicant and developer is advised to ensure that the development is not inconsistent with Council's consent and if necessary consult with Council's Building Certification Services or your accredited certifier prior to submitting your construction certificate application to enable these matters to be addressed accordingly.

2. The applicant is advised that the Construction Certificate plans and specification must comply with the provisions of the Building Code of Australia (BCA).

In this regard, the development consent plans do not show compliance with the deemed-to-satisfy provisions of the BCA, including:

a)	Part B1	-	Structural provisions
b)	Part C1	-	Fire resistance and stability
c)	Part C3	-	Protection of openings
d)	Clause D3.5	-	Car parking for people with disabilities
e)	Part E1	-	Fire fighting equipment
f)	Part E2	-	Smoke Hazard Management
g)	Part E4	-	Emergency lighting, exit signs & warning systems
h)	Part F1	-	Damp and weatherproofing
i)	Part F4	-	Light and ventilation
j)	Part F5	-	Sound Transmission and Insulation
k)	Section J	-	Energy efficiency

Details of compliance with the relevant provisions of the Building Code of Australia and conditions of development consent are to be provided in the plans and specifications for the construction certificate.

You are advised to ensure that the development is not inconsistent with Council's consent and if necessary consult with Council's Building Certification Services or your accredited certifier prior to submitting your construction certificate application to enable these matters to be addressed accordingly.

3. The applicant/owner is advised that this approval does not guarantee compliance with the provisions of the Disability Discrimination Act 1992 and the applicant should therefore consider their liability under the Act. In this regard, the applicant is advised that compliance with the requirements of the Building Code of Australia and Australian Standard 1428.1 - Design for Access and Mobility does not necessarily satisfy the objectives of the Disability Discrimination Act 1992.

The applicant/owner is requested to give consideration to providing access and facilities for people with disabilities in accordance with Australian Standard 1428 Parts 1, 2, 3 and 4 - Design for Access and Mobility, which may be necessary to satisfy the objectives of the Disability Discrimination Act 1992.

4. 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.

ATTACHMENT /S:

Nil

.....
SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
DAVID ONGKILI
CO-ORDINATOR - MAJOR
ASSESSMENTS

Director, City Planning Report 102/2007



SUBJECT:	3 Milford Street, Randwick

DATE:	14 November, 2007	FILE NO:	DA/603/2007 & PROP019421

REPORT BY: DIRECTOR, CITY PLANNING

INTRODUCTION:

Attached is a Development Assessment Report for conversion of existing attached dual occupancy dwelling to single dwelling including alterations and additions at No. 3 Milford Street, Randwick.

RECOMMENDATION:

That Council consider and determine the application in accordance with the recommendation contained in the attached report.

ATTACHMENT/S:

Development Application Report dated 8 November 2007.

.....
SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
PHILIP NORTH
**SENIOR DEVELOPMENT
ASSESSMENT OFFICER**

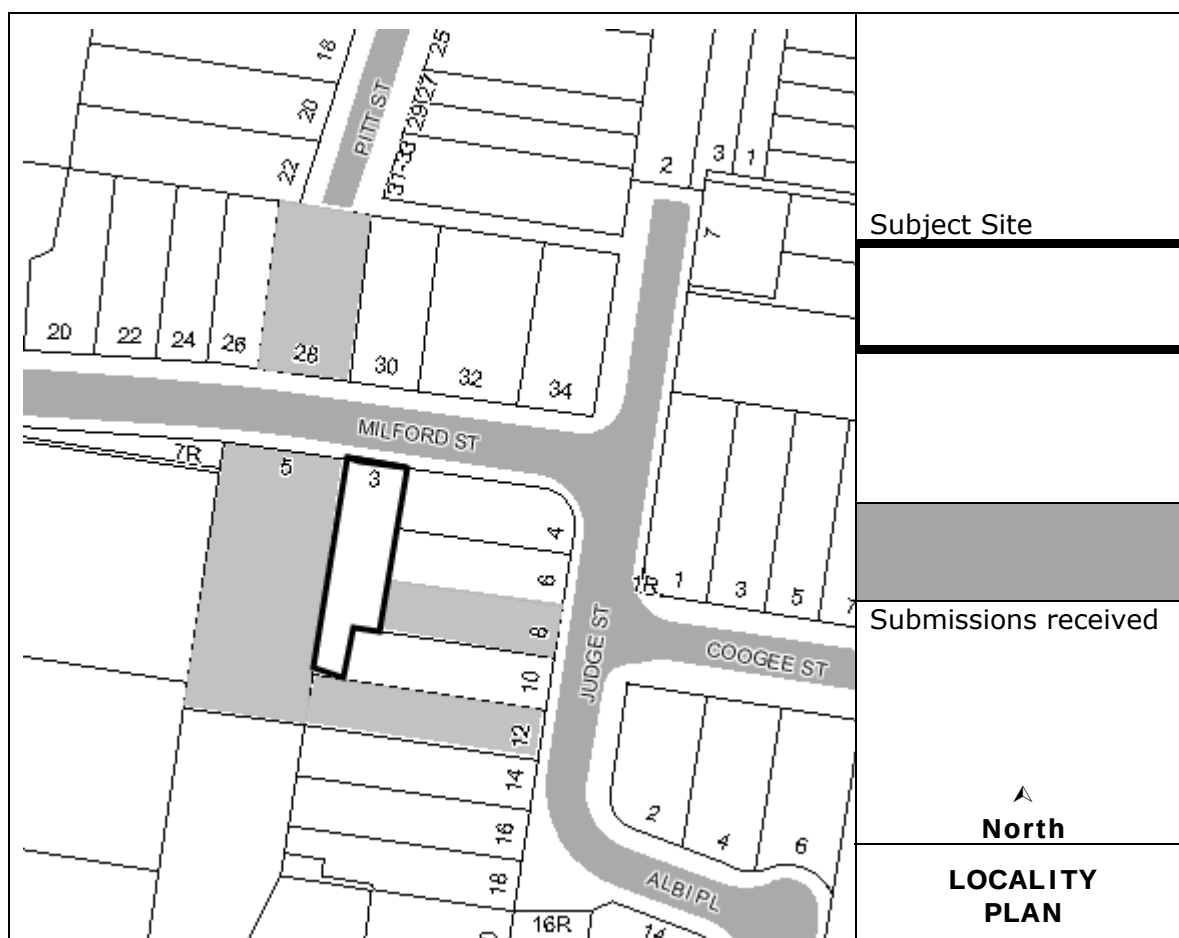
Development Application Report



REPORT BY: DIRECTOR, CITY PLANNING

DATE:	8 November 2007	FILE NO:	DA/603/2007 & PROP019421

PROPOSAL:	Conversion of existing attached dual occupancy dwelling to single dwelling including alterations and additions.
PROPERTY:	3 Milford Street, Randwick
WARD:	East Ward
APPLICANT:	Ms A J Freeman
OWNER:	Ms A J Freeman



1. EXECUTIVE SUMMARY

The application has been referred to Council for determination at the request of Councillors Andrews, Matson and Seng.

The development application proposes the conversion of an existing two storey dual occupancy into a single dwelling as well as various alterations and additions including an additional storey, a larger rear deck and a double garage at the street frontage. The proposed development was notified to surrounding properties for two weeks from 8 August 2007 to 21 August 2007; thirteen objections were received. The main issues identified were privacy and view loss.

After a site inspection and meetings with a number of the objectors, several meetings took place with the applicant who resulted in the preparation of amended plans addressing the privacy issues and reducing the extent of view loss. These amended plans were lodged with Council on 20 September 2007.

The amended plans were renotified to the surrounding properties from 9 October 2007 to 22 October 2007. Nine further objections were received raising similar issues although some acknowledged that the privacy issues had been largely resolved.

The proposed development complies with the solar access preferred solutions of the DCP but is non-compliant in respect of FSR and external wall height. There are also minor non-compliances with the preferred first floor western side boundary setbacks and permeable landscaped area controls.

Subject to minor design modifications (to be conditioned), the proposal is considered to be consistent with the performance requirements of the DCP. Privacy impacts have been satisfactorily addressed by the amended plans while view impacts are considered to be within reasonable limits. Bulk and scale impacts upon the streetscape are also considered to be consistent with DCP performance requirements.

The application is thus recommended for approval subject to conditions.

2. THE PROPOSAL

This is an application to convert an existing attached dual occupancy into a single detached dwelling and to undertake alterations and additions which include the following:

- A double garage built to the front boundary;
- A new entry lobby;
- Extensions to the rear;
- Enclosure of the western side stair;
- Internal alterations on level 2 including an additional stair from level 1 and WC to the south western corner, a new stair to a new third level and a large deck to the south eastern corner; and
- A level 3 "attic/home office" protruding from the existing roof form.

3. THE SUBJECT SITE AND SURROUNDING AREA:

The subject site is located on the southern side of Milford Street between Avoca Street to the West and Judge Street to the east in Randwick and is presently occupied by an existing 2 storey attached dual occupancy. The site has a frontage width of 12.19m, a side boundary depth of 32.95m and 43.262m and has an overall site area

of 464.5m². Neighbouring the property to the west is a 4 storey residential flat building, to the east are 3 single storey dwellings and to the rear is also a dwelling. The surrounding area is low density in character and consists predominantly of dwelling houses except for the Sacred Heart School and Church which occupies much of the southern side of the street.



Figure 1: Aerial photograph of the site.

4. SITE HISTORY

Previous applications recently submitted for development on the site include:

Development No.	Description	Determination
SC/13/2007	Strata subdivision certificate.	Not yet endorsed
DA/83/2007	Strata Subdivision of existing dual occupancy	Approved 23 February 2007
DA/74/1993	Alterations & additions to create dual occupancy	Approved 15 June 1993

Following the lodgement of the current application, various discussions took place between the applicant's architect, the assessing officer and the objectors which resulted in the lodgement of amended plans on 20 September 2007. These plans form the subject of this report.

5. COMMUNITY CONSULTATION:

The proposal has been notified in accordance with the DCP – Public Notification. The following submissions were received:

5.1 Objections

Dr & Dr Rianto, 1/5 Milford Street

<i>Issue</i>	<i>Comment</i>
View Loss	This unit experiences the greatest extent of view loss as a result of the proposed development. It would lose a significant portion of its district views from its living room but less so from its kitchen windows. A small extent of water view may also be obscured by the Level 2 roof which extends southwards; the L2 balcony privacy screen may also further obscure district views. Considered against the planning principle established in <i>Tenacity v Waringah</i>, the preservation of these views is considered less imperative given that they are entirely across a side boundary; in addition, the district views (which comprise those lost) are considered less valuable than the water views. The loss of the latter, however, by ancillary building elements is not considered acceptable. To eliminate this, it is recommended that a condition be imposed upon any consent to largely remove the unnecessary roof overhang and to pull back the extension of the balcony by 1.4m such that the privacy screen is no longer required and no loss of water views occurs.
Privacy	The amended design has been considerably modified to address the privacy impacts of the original proposal by relocating the balconies from the south to the east. It is now considered to have minimal privacy impacts on all units in no. 5.
Excess size and height	The DCP does not prohibit 3 storey dwellings and only suggests a preferred overall height of 9.5m under which this proposal generally sits. While the FSR is in excess of the "preferred FSR" for the site, the impacts are considered within reasonable limits.
Explanation from Council sought if development approved	This report, which is publicly available, performs this role.



Figure 2: View from living room of Unit 1. The district view between the existing dwelling to the left and the small chimney to the right will be largely obscured. The water and district views to the right of the small chimney will be retained.

David Thebridge & Anthea Thomas, 2/5 Milford Street

Issue	Comment
View Loss	The proposal will have minor impact upon the district views of this unit. No water views are impacted. The extent of view loss is considered minor and acceptable.
Excess floor area	See discussion of FSR under Section 8.1 below.
Excess overall height	It is difficult to ascertain the exact ground level under the highest parts of the proposal not only because the original ground is covered by an existing structure but also because the land slopes irregularly and, at points, steeply. Nevertheless, the highest portion generally sits under the 9.5m <i>suggested</i> preferred height and would only exceed it slightly in some areas. As these are located away from the immediate neighbours and do not cause any view loss or overshadowing, they are considered acceptable.
Excess wall height on western elevation	The new gable ended wall element on the western elevation complies with the preferred wall height of 7m (the gable element is not included in the measurement in accordance with the definition of Wall Height in the DCP – Dwelling Houses and Attached Dual Occupancies.



Figure 3: View from the Balcony of Unit 2: The proposed development sits generally above the smaller section of the lower metal roof. It is far to the right of the outlook from this balcony and will have no impact upon the general district and water views. The attic addition would eliminate the view of the high rise building which can be seen beyond the existing roof line.

L. Mottram, 3/5 Milford Street

Issue	Comment
Bulk of west elevation	See comments directly above.
Loss of views	The proposal would have no impact upon water views from this unit or the primary district views.
Excess FSR	See discussion of FSR under Section 8.1 below.
Height of additional storey	See discussion above.
Material of privacy screen not stated.	Conditions will be applied to the consent requiring design changes which will render the privacy screen unnecessary.



Figure 4: View from the Balcony of Unit 3: The additions which sit above the lower metal roof of existing dwelling will have no impact on the water or district views from this unit.

A. Manshor & N. Lim, 4/5 Milford Street

Issue	Comment
Bulk and scale	There would be minimal bulk and scale impacts upon this unit due to the generous separation between the proposal and unit 4.
Loss of views	The proposal would have no impact upon either water or district views from this unit as it is not located within the view corridor from this unit.
Loss of privacy.	This unit is located around 25 metres away from the nearest deck of the proposal which directs its view well away from this unit. Between both of these there is also some vegetation. Any impact is thus considered negligible and acceptable.
Privacy (glazing to the south)	The glazing to the south consists of louvered windows at the top landing of the stair on "level 1" and the end of the desk area in the attic. These replace one large, clear glazed upper level bedroom window facing directly towards this unit and may result in marginally better privacy outcomes overall. In addition, they are located more than 9 metres or 45degrees from this objector's property and are considered not to result in unreasonable privacy impacts.



Figure 5: View from Balcony of Unit 4: The proposal will have no impact upon the water or district views from this unit.

A. & I. Brownlow, 5/5 Milford Street

Issue	Comment
Privacy	Objector feels that privacy issues have been addressed by amendments.
Loss of views	The proposed attic would have minor impact upon some district views from this unit but the vast majority of these would be unaffected. There would be no impact from the level 1 addition on views from the living room; there would be very minor impact on district views from the balcony. Overall, view impact is minor and acceptable.
Height – 3 stories.	The DCP contains no prohibition against 3 storey dwellings. See further discussion regarding height above.
Decrease in property value.	This is no clear evidence on which to make an assessment of this impact.
Excess FSR/bulk and scale.	See discussion of FSR under Section 8.1 below.



Figure 6: View from the Balcony of Unit 5: The proposed attic will obscure the views of the ridgeline between the lower hip and the far left of the photo while the level 1 addition will obscure the roof of the closest dwelling below as well as some of the vegetation forward of it. Generally, however, the district views of the valley and the water will be retained.

M. Budiman, 6/5 Milford Street

Issue	Comment
Excess FSR	See discussion of FSR under Section 8.1 below.
Non-compliant side setbacks	The non-compliance with the western side setback is minor and does not result in any adverse impacts on adjacent properties in terms of bulk and scale, view loss or privacy.
Excess external wall height of western gabled wall.	See discussion above.
Inadequate landscape area.	The proposal only minimally increases the overall building footprint and does not decrease the extent of permeable area.
Excess FSR/bulk and scale.	See discussion of FSR under Section 8.1 below.



Figure 7: View from the Balcony of Unit 6: The proposal will not be visible from the position of this photograph and will have no impact on the water or district views from this unit.

A. & J. McNamara, 28 Milford Street

Issue	Comment
Excess FSR	See discussion of FSR under Section 8.1 below.
Double garage on front boundary excessively bulky and unattractive.	The amended plans have minimised the overall size of the garage, reducing its height by 300mm and its width by 600mm. This is considered acceptable as there are other garages in the street on front boundaries including the adjacent property at 4 Judge Street and across the street at 30 Milford Street.
Attic excessively bulky.	The attic is generally within the height controls, sits only slightly higher than the main ridge, and is unlikely to be visible from this objector's property.
Attic impinges on privacy of Judge Street properties.	The attic balustrade has been designed with a wide overhang to eliminate downwards sightlines and direct them upwards and outwards, thus eliminating privacy impacts.



Figure 8: View of the subject site from Milford Street. The attic would be barely visible from this viewing point. The proposed double garage, however, would dominate the streetscape and has been reduced to single width by way of condition of consent.

P. & M. Sai-Halasz, 8 Judge Street

Issue	Comment
Excessively high.	See discussion above.
Overshadowing.	The objector's property is located to the west of the subject site and would only be overshadowed by the proposal in the late afternoon at which time it is already overshadowed. The extent of overshadowing is thus compliant with the DCP.
Privacy impacts.	The attic and main terrace balustrade has been designed with a wide overhang to eliminate downwards sightlines and direct them upwards and outwards, thus reducing privacy impacts. Despite this, an analysis of sight lines suggests that there is still some opportunity to see directly into the rear windows of number 8. Although the separation is some 14 metres (in excess of the DCP's 9m preferred distance) it would be advisable to increase the width of the balustrade overhangs to ensure privacy is protected absolutely in this sensitive area. An appropriate condition will be applied to the consent.
Retaining walls along common boundary not strong enough to support additional structure.	Appropriate conditions of consent will be applied to ensure that necessary structural measures are implemented.

Issue	Comment
Problem of sand washing out from under retaining walls of existing building in heavy rain.	Structural work associated with any new building work has the potential to address this problem along with any existing weakness in the existing foundation material. Appropriate conditions will be applied to any consent.

M. & A. Bernhardt, 7/5 Milford Street (objection to original proposal)

Issue	Comment
View loss.	This unit will experience no loss of water views and no loss of its primary district views. A small part of its district views to the north will be slightly modified by the proposed attic.
Privacy impacts.	The redesign of the balconies has eliminated the previous unacceptable privacy impacts of the first proposal.
Excessive size	See discussion of FSR under Section 8.1 below.
Request deletion of third storey.	The third storey has no unreasonable impacts upon this particular unit.
Request deletion of all extensions to the rear.	The extensions to the rear have been redesigned and moderated and will have no adverse impacts upon this unit.
Request deletion of the balconies.	The redesign of the balconies has eliminated the visibility of the attic balcony and significantly reduced the impacts of the primary balcony which now faces east rather than south and has been reduced considerably in size.

P. Sandona, 8/5 Milford Street (objection to original proposal)

Issue	Comment
Height above maximum 8.5 height limit.	There is no 8.5m height limit under the applicable DCP. See other comments relating to height above.
Excess FSR.	See discussion of FSR under Section 8.1 below.
Excessive size	See discussion of FSR under Section 8.1 below.
Inappropriate modern design.	This site is not a heritage item or located in a heritage conservation area and, as such, contemporary design is permitted. In addition, the design retains the essential form of the existing dwelling towards the street and confines the most contemporary elements to the rear.
Loss of views to neighbours.	See discussions above.

Issue	Comment
Loss of sunlight.	Solar access to all units is in accordance with the DCP.

P. Lee & A. Lee, 9/5 Milford Street (objection to original proposal)

Issue	Comment
View impacts.	There is no 8.5m height limit under the applicable DCP. See other comments relating to height above.
Health hazards from more communication antennae that may be required.	Generally, these items would be classed as exempt development and outside Council's control. If they are large enough, they would be required to go through Council's normal assessment process. This is not considered a significant concern.
Loss of property value.	There is no clear evidence on which to make an assessment of this issue.

G. Nomchong, 13/5 Milford Street (objection to original proposal)

Issue	Comment
Loss of water and district views.	There will be no loss of water views as the garage is too low. The only other view obscure will be the roof of 4 Judge Street further downhill. The loss of view from this unit is considered minimal acceptable.
Excess FSR.	See discussion of FSR under Section 8.1 below.
Excessive size	See discussion of FSR under Section 8.1 below.
Loss of privacy.	The redesign has significantly reduced any adverse privacy impacts. There are no enlarged external balconies at the front of the building which impact on this unit.
Excess height due to attic.	See previous discussion.
Damage to access roads on other sites surrounding property.	Damage to adjoining property is addressed by appropriate conditions of consent.



Figure 9: The front of the subject site viewed from Unit 13: The roof of the new lobby will be at the same level as the existing Juliette balcony while the roof of the garage will be about 1.9m lower. Although much of the nearest brown hipped roof will be obscured, the district views in the distance beyond will remain.

D. Mitchell, 12 Judge Street (objection to original proposal)

Issue	Comment
Excess FSR.	See discussion of FSR under Section 8.1 below.
Excessive size	See discussion of FSR under Section 8.1 below.
Loss of privacy.	The reorientation of the balconies towards the east has significantly reduced potential for privacy impacts upon this particular property which lies to the south/south-east.

O. Sandona, 14/5 Judge Street (objection to original proposal)

Issue	Comment
Loss of privacy.	The reorientation of the balconies towards the east has significantly reduced potential for privacy impacts upon this particular property which lies some distance to the south.

5.2 Support

No supporting submissions were received.

6. TECHNICAL OFFICERS COMMENTS

The application was referred to Council's landscape architect and development engineer who raised no objection to the development and recommended the application of standard conditions of consent should approval be granted.

7. MASTER PLANNING REQUIREMENTS

No master planning instruments are applicable.

8. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The Development application has been assessed in accordance with the provisions of the following relevant planning documents:

- Environmental Planning and Assessment Act 1979 as amended.
- State Environment Planning Policy (Building Sustainability Index: BASIX) 2004.
- Randwick Local Environmental Plan 1998.
- Development Control Plan – *Dwelling Houses and Attached Dual Occupancies*
- Development Control Plan – *Public Notification of Development Proposals and Council Plans*
- Building Code of Australia (BCA).

(a) Randwick Local Environmental Plan 1998

The site is zoned Residential 2B under Randwick Local Environmental Plan 1998 and the proposed activity is permissible with Council's consent.

The proposal is consistent with the general aims of RLEP 1998 and the specific objectives of the zone in that the proposed activity and built form will enhance and compliment the aesthetic character, environmental qualities and social amenity of the locality.

(b) State Environment Planning Policy (Building sustainability Index: BASIX) 2004

SEPP: BASIX requirements came into force for development applications lodged on or after 1 July 2007, involving:

- alterations and additions valued at \$50,000 or more:
or
- installation of a swimming pool with a capacity greater than 40,000 litres

The proposal is for alterations and additions valued over \$50,000 and the applicant has provided a BASIX certificate in accordance with the requirements of the SEPP. The provision of a certificate indicates that compliance with the current targets set for energy and water conservation have been met by the development. The certificate also identifies the measures to be shown on Development Application plans to ensure these targets are maintained through to construction.

The plans have been checked and they are consistent with the requirements indicated on the submitted BASIX certificate for DA stage. Standard conditions of consent requiring the continued compliance of the development with the SEPP: BASIX have been included in the recommendation section of this report.

(c) Section 94A Development Contributions

In accordance with Council's Section 94A Development Contributions Plan effective from 2 July 2007, the following monetary levy must be paid to Council.

Category	Cost	Applicable Levy	S94A Levy
Development Cost More than \$200,000	\$400,000	1.0%	\$4,000

8.1 Policy Controls

a. Development Control Plan – Dwelling Houses and Attached Dual Occupancies

The DCP for Dwelling Houses and Attached Dual Occupancies states that a proposal is deemed to satisfy the Objectives and Performance Requirements of the DCP if it complies with the corresponding Preferred Solutions. Therefore, the tables below assess the proposal against the Preferred Solutions, and where non-compliance results, assessment is made against the relevant Objectives and Performance Requirements.

	<i>Preferred Solution</i>	<i>Assessment</i>
S1	40% of the total site area is provided as landscaped area.	48% of the site is landscaped area. Complies
S1	A minimum of 25m ² of useable private open space is to be provided.	The rear yard has an area of 124sqm. Complies
S1	Each dwelling must provide an area of private open space capable of containing a rectangle of minimum dimensions of 3m x 4m with minor changes in level.	The above area has dimensions of 15 x 6 metres. Complies
S1	Private open space in the front yard area is located behind the building line.	The above area is located in the rear yard. Complies
S6	20% of the total site area has permeable treatment.	17% of the site is permeable. Does not comply – see assessment below.

Landscaping

The Objectives of the DCP with regard to landscaping are that existing significant trees and landscaping are retained and enhanced; dwellings are provided with usable outdoor recreation space; storm water management and the appearance, amenity and energy efficiency of the dwelling is improved through integrated landscape design; and the native wildlife populations are preserved and enhanced through appropriate planting of indigenous vegetation.

The Performance Requirements are that the size and dimensions of landscaping suit the needs of the occupants; location and design of open space takes advantage of aspect for year round use; indigenous species are used and existing vegetation is recycled where possible; planting does not obstruct or interfere with entries; and unpaved areas are maximised to allow stormwater infiltration.

The preferred minimum permeable area is 20% of the site area. The proposed permeable area is 17% and does not comply. Notwithstanding this, the proposed area is considered acceptable for the following reasons:

- The discrepancy is small;
- There is minimal change from the existing extent of permeable area.
- There will be no resultant loss of tree cover or major plants.

Floor Area

	<i>Preferred Solution</i>	<i>Assessment</i>
S1	The preferred solution for an allotment of this area is that a maximum floor space ratio of 0.59:1 applies.	The proposed FSR is 0.76:1. Does not comply – see assessment below.

The Objectives and Performance Requirements of the DCP are that developments are not excessive in bulk or scale; are compatible with the existing character of the locality; and minimise adverse effects of bulk on neighbours and the street.

The bulk and scale of the proposal achieved compatibility with the locality as follows:

- The locality is dominated by a four storey residential flat building directly adjacent the subject site; the proposal presents a significantly smaller bulk and scale than this.
- The additional building mass is located to the rear of the site away from the street and has minimal visibility; the street presentation remains substantially one of a standard two storey detached dwelling.
- The attic is partially recessed into the existing roof form, thus minimising its bulk and scale impacts.
- The upper levels are stepped back from the lower levels, also helping to reduce their prominence from adjacent properties on Judge Street.
- The proposal minimises adverse impacts on neighbours as follows:
- View impacts are within acceptable limits (see discussion under the section, Foreshore Development below).
- The overshadowing is compliant with DCP controls (see discussion under the section, Solar Access and Energy Efficiency below).
- Overlooking impacts are acceptable (see discussion under the section, Visual and Acoustic Privacy below).

Height, Form & Materials

	<i>Preferred Solution</i>	<i>Assessment</i>
S1	External wall height of the building not exceed 7m	The proposed dwelling has a maximum external wall height of 7 metres. Complies.
S1	External wall height of buildings or additions to the rear does not exceed 3.5 m.	Not applicable.

	<i>Preferred Solution</i>	<i>Assessment</i>
S3	Cut or fill does not exceed 1m.	Not applicable.
S3	No excavation within 900mm of a side boundary.	Not applicable.
S3	No excavation within 4m of a rear boundary.	Not applicable.
S4	The length of a second storey portion is no greater than 12m at less than 1.5m from a southern boundary.	No second storey portion less than 1.5m from a boundary is greater than 12m in length. Complies.
S5	The second storey portion of a semi-detached dwelling be confined to within the existing roof space or be set back from the front elevation behind a substantial portion of the existing roof form and the design respects the symmetry of the adjoining semi-detached dwelling.	Not applicable.

Building Setbacks

	<i>Preferred Solution</i>	<i>Assessment</i>
S1	Front setback is average of adjoining dwellings or 6m.	The proposed dwelling is set back 4.5 metres from the front boundary and is generally consistent with the setbacks of adjoining dwellings. Complies.
S2	No part of the building is closer than 4.5m from rear boundary.	The proposed dwelling is 5 metres from the rear boundary. Complies.
S3	Side setbacks be 900mm for any part of the building at ground level.	The proposed development is set back in excess of 0.9 metres from the side boundaries at ground floor level. Complies.
S3	Side setbacks be 1.5m at second floor level.	The proposed development is set back a minimum of 1.15 metres from the side boundaries at second floor level. Does not comply – see assessment below
S3	Side setbacks be 3.0m at third floor level.	Not applicable.

The Objectives and Performance Requirements of the DCP seek to ensure that there is adequate access to sunlight, daylight and fresh air to building occupants and neighbours; and with respect to front boundary setbacks the proposal generally conforms to the adjoining development or dominant streetscape.

The preferred second floor side setback is 1.5m whereas the application proposes a minimum side setback on the western side ranging between 1.15m and 1.32m. Despite the non-compliance, this is considered acceptable for the following reasons:

- The length of the non-complying portions is small (ie 3.7m at the rear, 4.7m in the middle and 5.3m at the front);
- The non-compliance itself is small;
- The non-compliances do not result in view loss, overshadowing or any other adverse impacts on amenity;
- The non-compliances are generally the result of constructional requirements to align new building elements with existing walls at these setbacks; compliant setbacks would not produce a noticeably different result or improve neighbour amenity.

Visual & Acoustic Privacy

	<i>Preferred Solution</i>	<i>Assessment</i>
S1	Habitable room windows within 9m of another dwelling's windows are offset by 45 degrees or have fixed obscure glazing below 1.5m above floor level.	The proposal does not have any habitable room windows that overlook those of adjoining dwellings within 9 metres. Complies.
S1	Direct view into open space of an adjoining dwelling is obscured or screened within 9m and is beyond a 45 degree angle.	The first floor and attic decks, although overlooking the rear yard areas and rear windows of the adjoining properties in Judge Street, have been designed with horizontal screening devices which will eliminate downwards views within 9 metres and direct views upwards and outwards towards the ocean. Complies.
S1	Windows have sill heights of 1.5m or more or fixed obscure glazing below that height.	The louvre windows to the western wall of the rear stairwell are within 9m of balconies and windows at no. 5 and do not have obscure glazing; nevertheless, their level is below the lowest of the adjacent units and they look down into the driveway and undercroft area of no. 5. Complies.
S3	Buildings comply with AS 371 and AS 2107.	Conditioned to comply with the BCA.

Safety & Security

	<i>Preferred Solution</i>	<i>Assessment</i>
S1,2,3	Front doors of dwellings are visible from the street.	The proposed front door faces the street. Complies.
S1,3	Dwellings have at least one habitable room window overlooking the street.	The proposed dwelling has windows that overlook the street. Complies.

	<i>Preferred Solution</i>	<i>Assessment</i>
S2	A Council-approved street number is conspicuously displayed at the front of the dwelling or front fence.	Suitable condition included.

Garages & Driveways

	<i>Preferred Solution</i>	<i>Assessment</i>
S1	Council's Parking DCP requires 1 space, for dwellings with 2 bedrooms or less, or 2 spaces, for dwellings with 3 bedrooms or more.	The proposed dwelling has parking for 2 cars. Complies.
S1	Car parking spaces have a minimum dimension of 5.5m x 2.5m.	The dimensions of the parking spaces comply with the minimum. Complies.
S1	Driveways have minimum width of 3m and are set back at least 1m from the side boundary.	The proposed driveway is 3 metres wide and is set back at least 1 metre from the side boundary. Complies.
S1	Driveways have a maximum width of 3m at the property boundary.	The proposed driveway is 5.4 metres at the front boundary. Does not comply – see discussion below.
S1	Driveway gradients should not exceed a maximum of 1 in 8 for the first 5m from street alignment and 1 in 6 thereafter.	The proposed driveway gradient is less than 1 in 8. Complies.
S1	With respect to garages and carports to rear lanes these should be set back 1m to improve pedestrian visibility.	Not applicable.
S2	Parking and access is provided from the rear of the allotment where possible.	Not applicable.
S2	Garages and carports located behind the building line where parking only available from the front of the site.	The proposed garage is located on the front boundary well forward of the building line. Does not comply – see assessment below.
S2	Driveways, car parking spaces and structures do not occupy more than 35% of the width of the allotment	The proposed garage occupies about 49% of the width of the site frontage. Does not comply – see assessment below.

The Objectives and Performance Requirements of the DCP include that car parking and driveways are not visually obtrusive and do not detract from the appearance of the dwelling and the street scape; and structures are compatible in scale, form, materials and finishes with the associated dwelling.

The preferred maximum driveway width is 3m whereas the application proposes 5.4m. This is considered acceptable under the circumstances given that existing site circumstances do not permit vehicular access down the side of the building and require that the necessary two parking spaces are located on or close to the front boundary.

The preferred proportion of parking structures occupying the width of the allotment is 35% whereas the application proposes that 49% of the property width is occupied by a garage built to the front boundary. This is similar, however, to the dominance of the garage and wall structure at 30 Milford Street (across the street) and is thus consistent with the existing streetscape character.

FENCES

	<i>Preferred Solution</i>	<i>Assessment</i>
S1	Existing sandstone fences and walls are retained/recycled.	Not applicable.
S1	Solid front fences or on street frontages in front of the building line are no higher than 1.2m.	Not applicable.
S1	Fences in front of the building line or on street frontages may be up to 1.8m provided that the upper two thirds is at least 50% open.	The proposed front has a height of 1.8 metres. Appropriate conditions will be imposed to ensure that the infill panels are at least 50% open. Complies.

Foreshore Development

	<i>Performance Requirements</i>	<i>Assessment</i>
P1	No encroachments on Foreshore Building Line at identified properties.	Not applicable.
P2	Building form, colour, materials and finishes are sympathetic.	Not applicable.
P3	Stepped buildings on sloping sites are articulated.	Not applicable.
P4	Buildings incorporate sufficient setbacks to allow fair sharing of views.	Some view loss is associated with the proposed development. See the assessment below.
P5	Ancillary structures do not detract from the appearance of developments.	Not applicable.

The view primarily affected by the proposal is the leafy view across the rooftops of Coogee valley towards Coogee Beach and the ocean beyond. The majority of units of the residential flat building at 5 Milford Street enjoy this outlook and most will be unaffected by the proposal with minor loss of district views only and no loss of water

or iconic views. The most affected unit, however, is Unit 1 on the north eastern lowest habitable floor of the building; the impacts would be as follows:

- Living Room Window: a large portion of its district views across the valley would be lost along with the slither of its water view it currently enjoys. The loss of water view is primarily caused by a large horizontal roof overhang which will be removed by way of condition. The result will be the loss of slightly more than half of the district views and none of the water view.
- Kitchen Window: less than half of the district views would be lost and this would reduce with the elimination, by condition, of the roof overhang. No water views would be lost

The DCP does not contain more detailed controls in relation to view sharing other than that it should be "fair". The judgement by the Land and Environment Court of NSW in the matter of Tenacity Consulting v Waringah lays down a set of planning principles in relation to the assessment of fair view sharing against which this application can be assessed (assume the condition removing the excessive portion of roof and balcony has been applied):

The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.) To decide whether or not view sharing is reasonable, I have adopted a four-step assessment.

1. The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Comment: No water views will be lost. Although at least half of the district view will be lost, the water/land interface will remain. There are no iconic views which could be affected. Assessed against these criteria, the extent of view loss would be considered acceptable.

2. The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

Comment: Generally, there is no difference in the view experienced between standing and sitting positions. All the views at issue, however, are across a side boundary and their preservation, considered against these criteria, is not considered critical.

3. The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively,

but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Comment: As discussed previously, about half of the district views are lost while none of the water views or water/land interface views are lost. Considered as a whole, the extent of the impact could be described as minor, particularly given that the district views are considered of lesser value than the water views.

4. The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

Comment: Although it could be argued that the view loss results from a non-compliance with the preferred FSR, it is also the case that a building with compliant FSR if differently allocated upon the site could produce the same result. The other non-compliances such as height and side setbacks have no impact upon views. A non-compliant rear setback would certainly impact negatively on views but, in this instance, the setback exceeds minimum requirements.

Given the analysis against the appropriate planning principles, it is considered that the extent of view loss is reasonable in the circumstances.

Solar Access and Energy Efficiency

	Preferred Solution	Assessment
S1	New dwellings comply with a minimum of 3.5 stars on the NatHERS.	The application has been submitted with a BASIX certificate which also satisfies NatHERS requirements.
S2	Private open space receives at least 3 hours sunlight over part of its area between 9am and 3pm on 21 June.	The rear yard will receive at least 3 hours of sunlight. Complies.
S2,8	North-facing windows to living areas receive at least 3 hours sunlight over part of its area between 9am and 3pm on 21 June.	The proposal includes north-facing windows that will receive at least 3 hours of sunlight. Complies.

	<i>Preferred Solution</i>	<i>Assessment</i>
S9	Solar access to existing or future solar collectors on adjacent buildings is maintained between 9am and 3pm each throughout the year.	The proposal will not overshadow solar collectors on adjoining properties. Complies.
S9	North-facing windows to living areas of neighbouring dwellings receive at least 3 hours sunlight over part of its area between 9am and 3pm on 21 June. If currently less than 3 hours, it is not further reduced.	The proposal will not reduce solar access to less than 3 hours on north-facing windows. Complies.
S9	Principal outdoor recreation space of neighbouring dwellings receive at least 3 hours sunlight over part of its area between 9am and 3pm on 21 June. If currently less than 3 hours, it is not further reduced.	The proposal will not reduce solar access to private open space to less than 3 hours. Complies.

8.2 Council Policies

No Council policies are applicable.

9. ENVIRONMENTAL ASSESSMENT

The site has been inspected and the application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act, 1979, as amended.

The site is considered suitable for its continued use for low density residential purposes.

10. RELATIONSHIP TO CITY PLAN

The relationship with the City Plan is as follows:

Outcome 4: Excellence in urban design and development

The proposal carefully integrates contemporary alterations and additions into a more traditional existing building.

Outcome 10: A healthy environment

The proposal will promote the principles of environmental sustainable development through a design that maximises solar access and energy efficiency by providing north facing living areas, good natural ventilation and complying with the SEPP: BASIX requirements.

Direction 4a & associated key action: Improved design and sustainability across all development.

The proposed development will improve the internal amenity for the future occupants of the site and will not adversely impact upon the sustainability of adjoining properties.

11. FINANCIAL IMPACT STATEMENT

There is no direct financial impact from this matter.

12. CONCLUSION

The proposal complies with the relevant assessment criteria and the objectives and performance requirements of the DCP for Dwellings and Attached Dual Occupancies and will not result in any adverse impacts upon either the amenity of the adjoining premises or the character of the locality.

Although the proposal will result in some view loss to an adjacent unit, it is considered that this is reasonable as assessed against the applicable planning principle established by *Tenacity Consulting v Warringah*.

RECOMMENDATION:

THAT Council as the responsible authority grant its development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application DA/603/2007 for permission to convert an existing dual occupancy into a single dwelling and undertake alterations and additions, including an additional storey, a double garage and level 2 rear balcony at 3 Milford Street, RANDWICK NSW 2031 subject to the following conditions:

The following conditions are applied to satisfy the provisions of section 79C of the Environmental Planning and Assessment Act 1979 and to maintain reasonable levels of environmental amenity:

1. The development must be implemented substantially in accordance with the plans numbered 8891 100/A3(A) - 8891 107/A3(A), dated 14.9.07 and received by Council on 20 September 2007, the application form and on any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans:
2. The proposed Level 1 (or first floor) rear balcony associated with the Dining Room and Kitchen shall be reduced in length by approximately 1.4m such that it does not extend further than the rear most part of the main building (ie the adjacent south facing French doors) and no more than 2.6m south of gridline "A". The privacy screen on the western side of the balcony which is no longer required shall also be deleted. These changes are to be shown on the documentation submitted with an application for a construction certificate.
3. The proposed roof over the Level 1 (or first floor) rear balcony associated with the Dining Room and Kitchen shall be reduced in length by approximately 2.2m such that it does not extend further than 2.9m south of gridline "A".
4. The bench-top handrails provided to the eastern sides of the rear Level 1 and attic balconies shall extend the full length of the balconies, be permanently fitted and constructed of an opaque material of a minimum width of 900mm for level 1 and 750mm for the attic.

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 Director of Planning & Community Development, in accordance with section 80A (2) of the *Environmental Planning and Assessment Act 1979* prior to a construction certificate being issued for the relevant building works.

6. Metal roof sheeting is to be painted or colour bonded to minimise reflection and to be sympathetic and compatible with the building and surrounding environment.
7. There must be no encroachment of the structure/s onto any adjoining premises or onto Council's road reserve, footway or public place, unless permission has been obtained from the owner/s of the adjoining land accordingly.
8. No cooking facilities or sanitary fittings other than those indicated on the approved plans are to be installed in the premises without the prior written consent of the Council.

The following condition is imposed to satisfy relevant requirements of the Sydney Water Corporation.

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

The approved Construction Certificate plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to commencing any building or excavation works, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

If suitable, the plans will be appropriately stamped. For Quick Check agent details please refer to Sydney Water's web site at www.sydneywater.com.au and go to the Building, Developing and Plumbing, then Quick Check or Building and Renovating or telephone 13 20 92.

The principal certifying authority is required to ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans before commencing works.

The following condition/s are applied to meet additional demands for public facilities;

10. In accordance with Council's Section 94A Development Contributions Plan effective from 2 July 2007, the following monetary levy must be paid to Council.

Category	Cost	Applicable Levy	S94A Levy
Development Cost More than \$200,000	\$400,000	1.0%	\$4,000

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.

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.

The following conditions are imposed to promote ecologically sustainable development and energy efficiency.

11. In accordance with the provisions of the Environmental Planning & Assessment Regulation 2000, a relevant BASIX Certificate and associated documentation must be submitted to the Certifying Authority with the Construction Certificate application for this development.

The required commitments listed and identified in the BASIX Certificate are to be included on the plans, specifications and associated documentation for the proposed development, 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.

12. In accordance with Clause 154B of the Environmental Planning & Assessment Regulation 2000, a Certifying Authority must not issue a final 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 the final Occupation Certificate.

The following group of conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:

13. Surface water/stormwater must be drained and discharged to the street gutter or suitably designed absorption pit, to the satisfaction of the Certifying Authority and details are to be included in the construction certificate application for the development.

Absorption pits must be located not less than 3m from any adjoining premises and the stormwater must not be directed or flow onto any adjoining premises or cause a nuisance.

Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council prior to commencement of works.

14. 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.

The following conditions are applied to ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations:

15. 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 legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of `on-the-spot` penalty infringements or service of a notice and order by Council.

16. All new building work must be carried out in accordance with the provisions of the **Building Code of Australia** (BCA), in accordance with Clause 98 of the *Environmental Planning and Assessment Regulation 2000*.
17. **Prior to the commencement of any building works**, 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 and Environmental Planning & Assessment Regulation 2000.

A copy of the construction certificate, the approved plans & specifications and development 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.

18. **Prior to the commencement of any building works**, the person having the benefit of the development consent must:
 - i) appoint a *Principal Certifying Authority* for the building work; and
 - ii) appoint a *principal contractor* for the building work, or in relation to residential building work, obtain an *owner-builder* permit in accordance with the requirements of the Home Building Act 1989, and notify the *Principal Certifying Authority* and Council accordingly in writing; and
 - iii) unless the person having the benefit of the consent is the *principal contractor* (i.e. *owner-builder*), notify the *principal contractor* of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
 - iv) give at least two days notice to the Council, in writing, of the person's intention to commence building works.

In relation to residential building work, the principal contractor must be the holder of a contractor licence, in accordance with the provisions of the Home Building Act 1989.

19. The building works must be inspected by the *Principal Certifying Authority* (or another *certifying authority* if the *Principal Certifying Authority* agrees), in accordance with sections 109 E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

The *Principal Certifying Authority* must specify the relevant stages of construction to be inspected in accordance with section 81A (2) (b1) (ii) of the Environmental Planning & Assessment Regulation 2000 and a satisfactory inspection must be carried out, to the satisfaction of the *Principal Certifying Authority*, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

Documentary evidence of the building inspections carried out and details of compliance with Council's consent is to be maintained by the *Principal Certifying Authority*. Details of *critical stage inspections* carried out and copies of certification relied upon must also be forwarded to Council with the *occupation certificate*.

The *principal contractor* or *owner-builder* (as applicable) must ensure that the required critical stage and other inspections, as specified in the *Principal Certifying Authority's* "Notice of Critical Stage Inspections", are carried out to the satisfaction of the *Principal Certifying Authority* and at least 48 hours notice (excluding weekends and public holidays) is to be given to the *Principal Certifying Authority*, to carry out the required inspection, before carrying out any further works.

20. 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*; and
 - a statement stating that "unauthorised entry to the work site is prohibited".
21. 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.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The requirements of the Environmental Planning & Assessment Act 1979 and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

22. **Prior to the issuing of an interim or final occupation certificate**, a statement is required to be obtained from the Principal Certifying Authority, which confirms that the development is not inconsistent with the development consent and the relevant conditions of development consent have been satisfied.

Details of *critical stage* inspections carried out by the principal certifying authority together with any other certification relied upon and must also be provided to Council with the occupation certificate.

23. In accordance with clause 98 of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition, that in the case of residential building work, a contract of insurance must be obtained and in force, in accordance with the provisions of the Home Building Act 1989.

Where the work is to be done by a licensed contractor, excavation or building work must not be carried out unless the Principal Certifying Authority (PCA):

- has been informed in writing of the licensee's name and contractor number; and
- is satisfied that the licensee has complied with the insurance requirements of Part 6 of the *Home Building Act 1989*, or

Where the work to be done by any other person (i.e. an *owner-builder*), excavation or building work must not be carried out unless the Principal Certifying Authority:

- has been informed of the person's name and *owner-builder* permit number; or
- has been given a declaration, signed by the owner of the land that states that the market cost of the labour and materials involved in the work does not exceed \$5,000.

Details of the principal building contractor and compliance with the provisions of the *Home Building Act 1989* (i.e. *Details of the principal licensed building contractor and a copy of the Certificate of Insurance*) are to be submitted to Council **prior to the commencement of works**, with the notice of appointment of the PCA / notice of intention to commence building work.

24. The required Long Service Levy payment, under the Building and Construction Industry Long Service Payments Act 1986, is to be forwarded to the Long Service Levy Corporation or the Council, **prior to the issuing of a Construction Certificate**, 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.

25. Smoke alarms are required to be installed in each Class 1 building or residential dwelling in accordance with the relevant provisions of Part 3.7.2 of the B.C.A. – Housing Provisions.

Smoke alarms must comply with AS3786 – Smoke alarms and be connected to the consumer mains electric power supply and provided with a battery back-up.

The smoke alarms are to be installed in suitable locations on or near the ceiling, in any storey containing bedrooms; located between each part of the dwelling containing the bedrooms and the remainder of the dwelling, or where bedrooms are served by a hallway, the smoke alarms are to be located in that hallway; and smoke alarms are to be installed in any other storey not containing bedrooms, to the satisfaction of the certifying authority.

Smoke alarms are not to be located in 'dead-air-spaces', in the corner junction of walls and ceilings between exposed rafters/joists or at the apex of raked ceilings, as detailed in Part 3.7.2 of the Building Code of Australia – Housing Provisions.

Details of compliance with the provisions of the Building Code of Australia must be included in the plans/specification for the **construction certificate**.

The following conditions are applied to ensure that the development satisfies relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

26. The demolition of buildings and the removal, storage, handling and disposal of building materials (including asbestos) must be carried out in accordance with the relevant requirements of WorkCover NSW, the NSW Department of Environment & Conservation (formerly the Environment Protection Authority) and Randwick City Council policies and conditions, including:

- Occupational Health and Safety Act 2000
- Occupational Health and Safety (Hazardous Substances) Regulation 2001
- Occupational Health and Safety (Asbestos Removal Work) Regulation 2001
- WorkCover NSW Code of Practice for the Safe Removal of Asbestos
- Australian Standard 2601 (2001) – Demolition of Structures
- The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 1996.
- Relevant Department of Environment & Conservation (DEC) / Environment Protection Authority (EPA) and WorkCover NSW Guidelines.
- Randwick City Council Asbestos Policy (adopted 13 September 2005)

A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.

27. A **Demolition Work Plan** must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures.

The Work Plan must include the following information (as applicable):

- The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor
- Details of hazardous materials, including asbestos
- Method/s of demolition and removal of asbestos
- Measures and processes to be implemented to ensure the health & safety of workers and community
- Measures to be implemented to minimise any airborne asbestos and dust
- Methods and location of disposal of any asbestos or other hazardous materials
- Other relevant details, measures and requirements to be implemented as identified in the Asbestos Survey

- Date the demolition and removal of asbestos will commence

The Demolition Work Plan must be submitted to Council and the Principal Certifying Authority (PCA) if the Council is not the PCA, not less than two (2) working days **before commencing any demolition works** involving asbestos products or materials. A copy of the Demolition Work Plan must also be maintained on site and be made available to Council officers upon request.

Note *it is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.*

28. Except with the written approval of Council's Manager of Health, Building & Regulatory Services, all building, demolition and associated site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and Public Holidays.

In addition, the use of any rock excavation machinery or any mechanical pile drivers or the like, is restricted to the hours of 8.00am to 5.00pm (maximum) on Monday to Friday only, to minimise the noise levels during construction and loss of amenity to nearby residents.

29. 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 provisions of the *Protection of the Environment Operations Act 1997* must be satisfied at all times.

30. Public safety and convenience must be maintained at all times during demolition, excavation and construction works.

The roadway, footpath and nature strip must be maintained in a good, safe condition and free from any obstructions, materials, soils or debris at all times. Any damage caused to the road, footway or nature strip must be repaired immediately, to the satisfaction of Council.

A Road Opening Permit must be obtained from the Council and other relevant Authorities prior to excavating or opening-up the road or footway for services or the like.

Any part of Council's nature strip which is damaged as a result of the work must be back-filled, top-soiled and re-turfed with kikuyu turf prior to occupation or finalisation of the development, to Council's satisfaction.

31. Building materials, sand, soil, waste materials or construction equipment must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.

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, unless the waste container is located upon the road in accordance with the Roads & Traffic Authority Guidelines and Requirements, and the container is exempt from an approval under Development Control Plan for Exempt & Complying Development and Council's Local Approvals Policy. Applications to

place a waste container in a public place can be made to Council's Building Services section.

32. During construction stages, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban Stormwater – Soils and Construction, published by the NSW Department of Housing

Stockpiles of soil, sand, aggregate or other materials must not be located on any footpath, roadway, nature strip, drainage line or any public place and the stockpiles must be protected with adequate sediment control measures.

Building operations such as brick cutting, washing tools or equipment and mixing mortar are not permitted on public footpaths, roadways, nature strips, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system.

A warning sign for soil and water management must be displayed in a prominent position on the building site, visible to both the public and site workers. The sign must be displayed throughout the construction period. Copies of a suitable warning sign are available at Council's Customer Service Centre for a nominal fee.

33. Public safety must be maintained at all times and public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.

A temporary safety fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5 metres). Temporary fences are to have a minimum height of 1.8 metres and be constructed of cyclone wire fencing, with geotextile fabric attached to the inside of the fence to provide dust control, or other material approved by Council.

Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

The public safety provisions and temporary fences must be in place **prior to the commencement of any demolition, excavation or building works** and be maintained throughout construction.

If it is proposed to locate any site fencing, hoardings or amenities upon a footpath or public place, the written consent from Council's Building Services section must be obtained beforehand and detailed plans are to be submitted to Council for consideration, together with payment of the weekly charge in accordance with Council's adopted fees and charges.

34. A local approval application must be submitted to and be approved by Council's Building Services section 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 (greater than 3m in length) or any container or other article.

The following group of conditions have been applied to ensure the structural adequacy and integrity of the proposed building and adjacent premises:

35. A Certificate of Adequacy supplied by a *professional engineer* shall be submitted to the certifying authority (*and the Council, if the Council is not the certifying authority*) **prior to a construction certificate being issued** for the development, certifying the structural adequacy of the existing structure to support the additional storey/upper floor addition.

The following conditions have been applied to ensure that noise emissions from the development satisfy legislative requirements and maintain reasonable levels of amenity to the area:

36. The installation of rainwater tanks shall comply with the following noise control requirements:-
- a) The operation of all 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 Department of Environment & Conservation Noise Control Guidelines.
 - b) Plant and equipment associated with rainwater tank(s) are to be enclosed in a sound absorbing enclosure or installed within a building, to minimise noise emissions and possible nuisance to nearby residents.
 - c) The operation of plant and equipment associated with the rainwater tank(s) 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.

The following conditions have been applied to ensure that adequate security provisions are made for vehicular access, parking and public infrastructure:

37. The applicant must meet the full cost for Council or a Council approved contractor to install vehicular crossings and 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.
38. A Road Opening Permit must be obtained from Council's City Services Department prior to opening-up or carrying out any proposed works within the road, footpath, nature strip or other public place and all works including repairs are to be carried out to Council's satisfaction.

The following conditions are applied to provide adequate provisions for access, transport and infrastructure:

39. Prior to the issuing of a final occupation certificate the applicant must meet the full cost for Council or a Council approved contractor to:
- a. Reconstruct/extend the concrete vehicular crossing and layback at kerb opposite the proposed garage entrance to the site.

- b. Remove the redundant concrete vehicular crossing and layback and to reinstate the area with concrete footpath, turf and integral kerb and gutter to Council's specification.
40. 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.
41. The applicant shall note that all external work, carried out on Council property, shall be in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works". An application for the cost of the Council civil works is to be submitted to Council at the completion of the internal building works. An application fee shall be payable to Council for the quotation of the required works. The applicant may elect to use his contractor for the required works, subject to Council approval, however a design and supervision fee based on the lowest quotation from Council's nominated contractor will be required to be paid prior to the commencement of any works.

The following conditions are applied to provide adequate provisions for future civil works in the road reserve:

42. The Council's Development Engineer has inspected the above site and has determined that the design alignment level (concrete/paved/tiled level) at the property boundary for driveways, access ramps and pathways or the like, shall be as follows:
 - Garage Entrance – Match the existing Council kerb level at all points opposite the kerb.
 - Pedestrian Gate Entrance – Match the existing driveway slab level at this location.

Any enquiries regarding the above matter can be directed to Council's development Engineer Mr P. O'Sullivan on 9399 0923.
43. The design alignment levels (concrete/paved/tiled level) issued by Council and their relationship to the kerb/slab level 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.
44. The above alignment levels and the site inspection by Council's Development Engineer have been issued at a prescribed fee of \$121.00 (inclusive of GST). This amount is to be paid prior to a construction certificate being issued for the development.

The following conditions are applied to provide adequate consideration for service authority assets:

45. A public utility impact assessment must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.

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

The following conditions are applied to provide adequate provisions for landscaping and to maintain reasonable levels of environmental amenity:

47. That part of the naturestrip upon Council's footway which is damaged during the construction of the proposed works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicant's expense prior to the issue of a final Occupation Certificate.

Advisory Conditions

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.

ADVISORY MATTERS:

- A1 Building or excavations works must not be commenced until a construction certificate has been obtained from Council's Building Certification Services or an Accredited Certifier and either Council's Building Certification Services or an Accredited Certifier has been appointed as the Principal Certifying Authority (PCA) for this development.

Failure to obtain a Construction Certificate and appoint a PCA before commencing works is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million under the Environmental Planning & Assessment Act 1979.

- A2 The applicant is advised that the Construction Certificate plans and specification must comply with the provisions of the Building Code of Australia (BCA) and the construction certificate must not be inconsistent with the development consent.

In this regard, the development consent plans do not detail compliance with the deemed-to-satisfy provisions of the BCA.

Details of compliance with the relevant provisions of the Building Code of Australia and conditions of development consent are to be provided in the plans and specifications for the construction certificate.

You are therefore advised to ensure that the development is not inconsistent with Council's consent and to consult with Council's Building Certification Services or an accredited certifier prior to submitting your construction certificate application to enable these matters to be addressed accordingly.

ATTACHMENT / S:

Nil

.....
SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
PHILIP NORTH
**SENIOR DEVELOPMENT
ASSESSMENT OFFICER**

Director, City Planning Report 103/2007



SUBJECT:	413R Clovelly Road, Clovelly

DATE:	15 November, 2007	FILE NO:	DA/843/2007 & PROP043379

REPORT BY: DIRECTOR, CITY PLANNING

INTRODUCTION:

Attached is Development Assessment Report for construction of a coastal walkway from the Clovelly Surf Life Saving Club to the pump-out station on Cliffbrook Parade, comprising pedestrian footpaths and crossings within the public car park, pedestrian plaza areas, seatings, retaining wall, landscaping and reconfiguration of the car park layout at No. 413R Clovelly Road, Clovelly.

RECOMMENDATION:

That Council consider and determine the development application in accordance with the recommendations contained in the attached report.

ATTACHMENT / S:

Development Application Report dated 26 October 2007

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SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
SIMON IP
**SENIOR DEVELOPMENT
ASSESSMENT OFFICER**

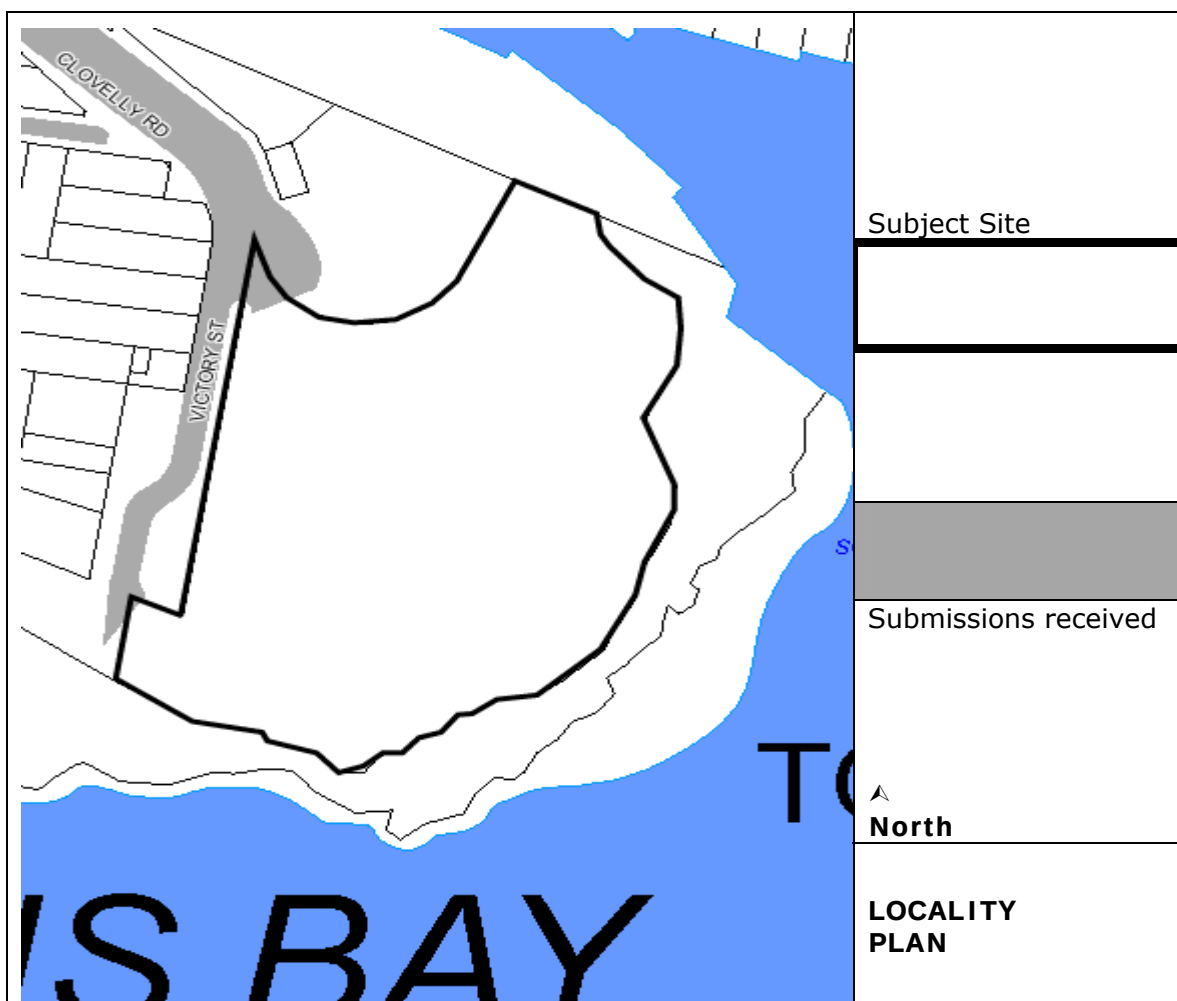
Development Application Report



REPORT BY: DIRECTOR, CITY PLANNING

DATE:	26 October, 2007	FILE NO:	DA/843/2007 & PROP043379

PROPOSAL:	Construction of a coastal walkway from the Clovelly Surf Life Saving Club to the pump-out station on Cliffbrook Parade, pedestrian footpaths and crossings within the public car park, comprising pedestrian plaza areas, seatings, retaining wall, landscaping and reconfiguration of the car park layout.
PROPERTY:	413R Clovelly Road, CLOVELLY
WARD:	North Ward
APPLICANT:	Randwick City Council
OWNER:	NSW Department of Lands



1. EXECUTIVE SUMMARY

The application is referred to the Ordinary Council Meeting as the subject land is under the care, control and management of Council. The application is for the construction of a coastal walkway from the Clovelly Surf Life Saving Club (SLSC) to the pump-out station on Cliffbrook Parade, pedestrian footpaths and crossings within the public car park, pedestrian plaza areas, seatings, retaining wall, landscaping and reconfiguration of the car park layout to create 252 spaces, including 11 accessible (disabled) spaces.

The majority of the site is Crown Land and is currently occupied by a public car park and the Clovelly Surf Life Saving Club. The proposed works will also cover a portion of Cliffbrook Parade, which is a Council road reserve.

Clovelly Bay and the subject site form part of the Eastern Beaches coastal walk, which connects Bondi Beach with Maroubra Beach. At present, that section of the coastal walkway between the SLSC and Gordon's Bay is not formally established and pedestrians have to pass through the public car park in order to access Cliffbrook Parade. The proposed development will create a safe passageway along the coastal edge of the car park and the landscaped area adjacent to Victory Street, and improve connection and amenity of the coastal walk.

A total of ten (10) submissions were received at the conclusion of the public notification period. The issues raised are mainly concerned with the safety aspects of the car park layout, landscape design and possible interruption to visitor parking and traffic as a result of the proposed construction works. The submission issues have been satisfactorily addressed within the body of this report.

State Environmental Planning Policy (SEPP) No. 71 – Coastal Protection is applicable to the site. The proposal is considered to be consistent with the objectives and relevant provisions of the SEPP, in that the development will not detrimentally affect the significant natural coastal features.

The majority of the site is zoned Open Space 6A under Randwick Local Environmental Plan (LEP) 1998, with a small portion being within a Council road reserve and is unzoned under the plan. The proposed development is consistent with the zone objectives and is permissible with Council's consent.

The site is located in the vicinity of the Clovelly Bay enclosure, which is classified as a heritage item under LEP 1998. The proposed works will not physically damage the Clovelly Bay enclosure, nor adversely impact on significant views to and from the item, nor adversely impact on its setting.

Council's Parking Development Control Plan (DCP) applies to the proposed development. Whilst acknowledging that the proposed parking bay dimensions do not comply with the numerical standards in the DCP, the overall parking design is satisfactory and does not undermine the serviceability of the car park.

The proposed works will significantly upgrade the amenity and safety of the Eastern Beaches coastal walkway, between the SLSC and Gordon's Bay, and are consistent with the provisions of Council's Clovelly Bay Plan of Management.

The proposed development satisfies the matters of consideration under Section 79C of the Environmental Planning and Assessment Act 1979, as amended.

The proposed development satisfies the relevant legislation, State policies and local planning controls, and is recommended for approval, subject to conditions.

2. THE PROPOSAL

The proposed development includes the following components:

Coastal walkway

- ☐ Construction of a pedestrian promenade along the coastal edge of the Clovelly Bay car park from the Surf Life Saving Club to the pump out station on Cliffbrook Parade. The walkway will be 3m to 5m in width and constructed of coloured concrete.
- ☐ The walkway will incorporate a number of plaza and look-out areas with geometric pattern concrete pavement.

Pedestrian access within car park

- ☐ Construction of a pedestrian footpath of 3.5m in width through the landscaped area adjacent to Victory Street along the western edge of the car park.
- ☐ Construction of a footpath of 2.5m in width linking the coastal promenade with the landscaped area along the western edge of the car park. The footpath crossings over the vehicular access aisles will be raised.
- ☐ Reconfiguration of the median and addition of a raised pedestrian crossing at the main (Clovelly Road) entrance of the car park.
- ☐ Addition of a raised pedestrian crossing connecting Cliffbrook Parade with the car park landscaped area at the southern end of Victory Street.

Seating

- ☐ Provision of 10 seating areas along the coastal promenade and landscaped area along the western edge of the car park.

Landscape works

- ☐ Upgrading of the soft landscaped area, including modification of earth mounds and provision of turf and shrub planting.

Car park reconfiguration

- ☐ Reconfiguration of the car park to provide 252 vehicle spaces, including 11 accessible (disabled) spaces.

Estimated total construction cost

- ☐ \$1,000,000
- ☐

3. THE SUBJECT SITE AND SURROUNDING AREA:

Site context

Clovelly Bay is situated between Bronte Beach to the north and Gordon's Bay to the south, and is bounded by rock ridges on both sides. Concrete platforms and promenades have been constructed along the edge of the bay. The Clovelly Bay enclosure, including the beach area, baths, concrete promenades and associated facilities, is classified as a heritage item under Randwick Local Environmental Plan 1998. The Clovelly Surf Life Saving Club (SLSC) and public car park are situated on the southern headland of the bay.

The site

The subject application relates to the Clovelly Bay public car park, which is situated at the eastern end of Clovelly Road. The car park is also accessible via the southern end of Victory Street. At present, a total of 255 vehicle spaces are provided, including 5 accessible (disabled) spaces. A grassed open space area separates the car park from Victory Street, and is periodically used for overflow parking. The proposed works will also cover the south-eastern portion of Cliffbrook Parade up to the pump-out station.



Photo 1 Clovelly Road entrance to the car park, with the bus stop in the background



Photo 2 The Clovelly Surf Life Saving Club located to the north of the car park



Photo 3 The grassed area separating the car park from Victory Street



Photo 4 Cliffbrook Parade and pump-out station

Land title and zoning

Land	Title Description	Ownership	RLEP Zoning
Clovelly Bay public car park and Surf Life Saving Club	Lot 7070 in DP 1060796, 413R Clovelly Road, Clovelly	Department of Lands (Crown Land)	Open Space 6A
Pump-out station (Cliffbrook Parade)	Lot 11 in DP 1094800, 46R Cliffbrook Parade, Clovelly	Randwick City Council	Unzoned (road reserve)

4. SITE HISTORY

Clovelly Bay forms part of the Eastern Beaches coastal walk, which connects Bondi Beach with Maroubra Beach. At present, that section of coastal walkway between SLSC and Gordon's Bay is not formally established and pedestrians have to pass through the public car park in order to access Cliffbrook Parade. The proposed development will create a safe passageway along the coastal edge of the car park and the landscaped area adjacent to Victory Street, and improve connection and amenity of the coastal walk.

5. COMMUNITY CONSULTATION:

The subject application has been notified by letter dated 19 October 2007 to 231 adjoining and nearby properties, in accordance with the provisions of the Public Notification of Development Proposals and Council Plans Development Control Plan. The application has also been advertised in the local newspaper.

5.1 Objections

A total of ten (10) objections were received at the conclusion of the public notification period:

- Karon Jannusch Lekeu, 9 Park Street, Clovelly
- Clovelly Precinct Committee (Secretary: Karon Jannusch Lekeu)
- Clovelly Surf Life Saving Club (President: Geoffrey R James)
- Mark Adamson, 14 Victory Street, Clovelly
- Ian Pratt, 34 Ocean Street, Clovelly
- Pauline Murphy
- Michael Seyffer
- Trevor Slaven, 20 Victory Street
- Christine and Colin Paull, 59 Melrose Parade
- Karen Taylor, 6 Victory Street

The issues raised in the submissions are addressed as follows:

- ☐ *The proposed footpath and crossings through the middle portion of the car park will result in adverse safety issues for pedestrians. The above access way does not reflect the desired line of pedestrian movements.*

Comments

At present, there are no dedicated footpaths within the car park connecting with the SLSC or the foreshore areas. Pedestrians are required to walk along the vehicular traffic aisles, which have a minimum length of approximately 65m, or follow a shortcut through parked vehicles. This arrangement is considered to carry significant safety concerns.

The proposed pedestrian access is positioned midway across the car park, and provides designated footpaths leading to the bus stop, SLSC and the proposed foreshore promenade. The crossings over the traffic aisles are raised to enhance visibility of pedestrians by vehicles. The layout of the access routes represents logical desired lines of pedestrians and will separate pedestrian from vehicular traffic. This element of the proposal is considered to promote safety and security for pedestrians.

- ☐ *Additional pedestrian crossings should be provided within the car parking area to slow down traffic speed.*

Comments

The provision of additional pedestrian crossings will require further reduction of car parking spaces and is not supported.

- ☐ *The proposal will result in a reduction of parking spaces, which add to the parking pressure experienced in the area.*

Comments

The proposal in its current form will reduce 3 parking spaces from 255 to 252. Council's Development Engineer has recommended the combination of each

pair of accessible (disabled) parking spaces to form one accessible space, as well as provision of two additional accessible spaces, in order to ensure safety and convenience for people with disabilities. After allowing for the required changes, the proposal will provide a total of 245 spaces, including 8 disabled spaces.

The reduction of 10 spaces represents 3.9% of the original number of parking spaces and is considered minor in scale. However, the development will increase accessible (disabled) parking from 5 to 8. Overall, the design scheme is considered to promote safety and security of pedestrian and vehicular traffic and facilitate use by people with disabilities. The minor reduction of parking spaces is justified.

- ☐ *Council should avoid commencing any construction work until after the peak summer seasons in order to relieve pressure of visitor parking in the area.*

Comments

The concern for disturbance to visitor traffic and potential parking pressure in the surrounding areas is acknowledged. It is noted that Council will undertake the proposed works as sufficient funding becomes available. A specific condition is recommended to require the preparation of a construction management plan, with details on the works schedule and measures to minimise disturbance to users, including the avoidance of works during the summer peak seasons. Subject to the above condition, the potential interruption to local traffic will be minimised.

- ☐ *The new parking spaces should be finished with 'soft-surfaced' materials.*

Comments

The proposed finishing to the new parking spaces will be bitumen surfaces that will be suitable to all weather conditions. Due to the high level of usage, it is considered not appropriate to provide 'soft' or grassed surfaces, which has adverse maintenance implications. Notwithstanding, new turfed areas will be provided on either end of each parking aisle and additional shrub planting will be incorporated in the western landscaped area. The proposal as a whole is considered to improve the visual quality of the car park.

- ☐ *At present, the car park provides for 8 SLSC volunteer duty patrol members' reserved parking spaces. The design scheme does not allow for such reserved parking spaces. It is suggested by the SLSC that removable bollards or chain barriers be installed so as to ensure the reserved spaces are not used as visitor parking.*

Comments

A specific condition is recommended to require a total of 8 reserved parking to be dedicated for the exclusive use by the SLSC patrol members and appropriately sign-posted.

The subject car park is owned and managed by Council. The issue of whether removable bollards or chain barriers are to be installed to avoid improper use of the above reserved parking is to be resolved via direct negotiation between the SLSC and Council's City Services Department, separate from this application.

- ☐ *The height of the 'low wall' between the seaward edge of the car park and the promenade is not specified in the design scheme*

Comments

The proposal includes a low wall of approximately 1.2m in height to be constructed behind the seatings to provide appropriate buffer for users. The applicant has submitted section drawings to clearly indicate the height and design of the walls.

- ☐ *The plan shows that the grassed area adjacent to Victory Street will be provided with tall shrubs, which may hinder its usage as an active recreation space.*

Comments

The landscaped area adjacent to Victory Street will be re-contoured and provided with shrub planting. However, sufficient open turfed areas will still be available on either side of the proposed footpath for active recreation purposes.

- ☐ *The proposed seating on the promenade should be relocated towards the seaward edge in order to avoid trip hazards to pedestrians, provide additional buffer from car exhaust and capture better view of the ocean.*

Comments

The proposed promenade will have a clear width of 3,500mm after allowing for the seating facilities. The design in its current form is not considered to create potential trip hazards. A low wall of approximately 1.2m in height will be constructed behind the proposed seating to provide appropriate buffer for users. The setback of the seating from the seaward edge of the walkway will minimise view obstruction from the public domain.

- ☐ *The existing paved areas around the car park contain trip hazards for pedestrians.*

Comments

The proposed development involves the provision of new concrete pathways within the car park areas and will provide safe access for the public. The proposal is considered to improve the amenity and safety of the site.

- ☐ *The proposal will result in further loss of soft landscaped areas on the site. The proposed footpaths across the grassed areas adjacent to Victory Street should be deleted.*

Comments

The proposal involves additional planting and re-contouring of earth mounds in the landscaped area adjacent to Victory Street, which will improve its visual quality and useability. Notwithstanding, the modified landscaped area will still be of an adequate size and dimension to enable active and passive recreational activities. The reduction of soft landscaped areas is required to maintain the current number of parking spaces while providing a new coastal promenade on the site. The proposed footpaths will improve pedestrian access and represent desired lines between the bus stop and Cliffbrook Parade.

- ☐ *The proposed promenade should be located outside of the existing car park boundary on the rock platform in order to avoid reduction of parking spaces.*

Comments

It is the intention of the design scheme to minimise encroachment of the walkway structures onto the rock platforms as a measure to protect the natural environmental feature. The relocation of the walkway onto the currently exposed rock shelves is not supported.

- ☐ *The finishing materials of the proposed promenade should be changed from concrete to weather resistant hardwood.*

Comments

Due to the high level of usage and proximity to the coastal environment, the adoption of concrete as paving materials will ensure durability and minimise maintenance difficulties. The concrete will be provided with coloured tinting in order to ensure compatibility with the surrounding natural environment.

- ☐ *The soil depth of the landscaped area adjacent to Victory Street should be increased from 300mm to 500mm - 600mm.*

Comments

A specific condition is recommended to require the preparation of a detailed landscape plan prior to construction, with information on the proposed planting and associated facilities. The above condition will ensure that the soil depth is adequate for the types of planting proposed.

- ☐ *The proposed footpaths in the turfed areas to the west of the SLSC are not necessary and should be deleted.*

Comments

The proposed footpaths to the west of the SLSC will improve pedestrian access between the bus stop, the SLSC and the car park areas. The design scheme in its current form is considered satisfactory.

- ☐ *An enlarged garbage enclosure should be provided for the SLSC and Sea Salt Café.*

Comments

The reconfiguration of garbage storage facilities for the SLSC and Sea Salt Café is outside the scope of the subject proposal and is not relevant to the current application.

- ☐ *The bus stop shelter should be restored to encourage use of public transport.*

Comments

The upgrading of the bus stop shelter is outside the scope of the subject proposal and is not relevant to the current application.

- ☐ *The reconfiguration of the entry median of the car park is not necessary.*

Comments

The proposal will provide a new pedestrian crossing at the main entry to the car park. Appropriate low shrubs will be provided at the median to improve visual appearance. The development is considered to improve safety and is satisfactory.

- ☐ *The proposed earth mounding within the landscaped area adjacent to Victory Street should be increased in height and incorporate more plantings, including banksia trees.*

Comments

The proposed shrub planting and earth mounds aim to improve the landscape quality of the open space adjacent to Victory Street and to provide a buffer between the adjoining residential developments and the public car park. The provision of shrubs is considered to maintain sightlines between the residential properties along Victory Street and the wider sea views whilst improving the visual quality of the car parking areas. A landscape plan will be required as a condition of consent to indicate the detailed planting layout and earth mounds contours prior to construction.

- ☐ *The plans do not appear to retain the existing bollards at the corner of Cliffbrook Parade and Victory Street, which currently restrict private vehicles from accessing the Sydney Water pumping station.*

Comments

The City Services Department of Council has confirmed that bollards or other appropriate devices will be installed near the corner of Cliffbrook Parade and Victory Street in order to restrict access to the pumping station by Council or Sydney Water maintenance vehicles and machinery. A specific condition will be recommended to ensure that appropriate details are shown on the Construction Certificate documentation to this effect.

- ☐ *The provision of concrete paving on Cliffbrook Parade would attract more users and recreational activities, which would detrimentally impact on the living amenity of the dwelling at No. 20 Victory Street.*

Comments

Cliffbrook Parade forms part of the Eastern Beaches coastal walkway which is a major attraction to the general public. The proposed works will upgrade the amenity and safety of the walkway and public car park. The proposal will provide suitable look-out and seating areas near Cliffbrook Parade for use by the public. It is considered not appropriate to discourage usage of the above public facilities.

- ☐ *The intersection between Victory Street and Cliffbrook Parade has been used for driving lessons and other recreation activities, which have resulted in noise impacts on the surrounding residents.*

Comments

Council do not have control over lawful use of public roads and recreation facilities. The above issues are not relevant to the current proposal.

- ☐ *The property at No. 20 Victory Street has its drainage connection running underneath the concrete footpath in Cliffbrook Parade. The proposed works may adversely impact on the existing drainage system of the above property.*

Comments

Council's City Services Department is aware of the existing drainage connection of No. 20 Victory Street underneath public footpath areas. Specific conditions have been recommended to require detailed drainage plans and utility services assessment to be prepared prior to the issue of any Construction Certificate. The above conditions will ensure drainage connection for the above property is not adversely affected and proper execution of works.

- ☐ *The proposed 'tall shrubs' in the landscaped areas of the site will obstruct views towards the ocean from Victory Street.*

Comments

As confirmed by Council's City Services Department, the proposed tall shrubs will have an approximate mature height of 5 to 6 metres. They are mainly planted in the grassed areas to the west of the SLSC, and the northern and southern portions of the landscaped areas adjacent to Victory Street. No tree or shrub planting is proposed along the coastal promenade. The proposed planting will visually soften the car parking area and improve the streetscape amenity. Additionally, unobstructed sightlines to the ocean are maintained across the majority of the site. Notwithstanding, a specific condition is recommended to limit the mature height of any shrubs to not more than 3m, in order to maximise views and sightlines to the ocean from the public and private domain.

- ☐ *The existing shrubs and trees have been providing a nesting ground for rodents that affect the neighbourhood. Any additional planting will exacerbate the current problem.*

Comments

A detailed landscape plan will be required as a condition of consent, which will nominate suitable plant species that can withstand the harsh coastal environment. The proposed shrub planting as depicted on the plans is limited to the edge of the landscaped areas as a measure to improve streetscape amenity. The proposal does not involve dense planting of shrubs or trees that will significantly increase fauna population on the site.

- ☐ *Clarification is sought by the objector as to whether the proposed paved pathways to the west of the SLSC will be for the exclusive use by pedestrians.*

Comments

The proposed paved pathways to the west of the SLSC are intended and configured for use by pedestrians only.

5.2 Support

None received.

6. TECHNICAL OFFICERS COMMENTS

The application has been referred to Council's Development Engineers, Landscape Architect and Heritage Planner for assessment. The comments provided are extracted as follows:

Heritage assessment comments

The site of the works comprises the eastern end of the southern headland of Clovelly Bay, including the existing carpark and grassed areas behind. To the north of the site, Clovelly Bay is listed as a heritage item under Randwick Local Environmental Plan 1998. The Inventory Sheet for the Clovelly Bay enclosure contained in the National Trust of Australia (NSW) Sydney Harbourside and Ocean Pools Survey notes that Clovelly Bay enclosure is significant for the following reasons *"it is unique along the New South Wales coast as it is the only swimming area that has been developed from a naturally occurring coastal feature and as such it is also the largest coastal swimming pool; it also includes one of four formed and enclosed concrete pools in the Sydney Region; it is evidence of human endeavour modifying the coastline for the provision of a recreational facility; it has associations with local swimming clubs; and its members; and, it has high aesthetic value."* The NSW Ocean Baths website notes that plans were announced by Randwick Council in the 1930s to build an Olympic swimming pool and a sea wall using gangs of unemployed labour.

The application proposes a range of landscape works in the vicinity of the existing carpark associated with the upgrading of the Randwick Coastal Walkway. In detail the works comprise

- Provision of a pedestrian footpath between the eastern end of Cliffbrook Parade and Clovelly Bay around the edge of the carpark
- Provision of a pedestrian footpath from the southern end of Victory Parade through the grassed areas to the west of the carpark
- Provision of a pedestrian footpath through the carpark
- Modification of existing grassed mounds
- Planting of low shrubs and turf, generally within the existing grassed areas
- Provision of seating
- Slightly increasing the area of the carpark to the west

Clause 46 of Randwick LEP 1998 requires Council to consider the likely effect of a proposal on the heritage significance of a heritage item in the vicinity.

The application has been accompanied by a Statement of Environmental Effects prepared by URS which includes a section entitled Archaeological and Heritage Assessment. The SEE notes that the works are in the vicinity of an area of heritage significance, but would not impact on the heritage conservation of the Clovelly Bay enclosure and that heritage significance would be respected and considered during the proposed development.

The proposal will not significantly increase the amount of paved area on the headland. The existing carpark will be extended slightly to the west encroaching into the existing grassed area. The landscape character of these existing grassed areas will be improved however with new turf and low shrubs. The proposed footpath around the edge of the headland will be constructed within the boundaries of the existing carpark, so that the existing sandstone block retaining wall can be retained and further encroachment on the rock shelves avoided. Appropriate consent conditions should be included in relation to the carrying out of repairs to the sandstone block retaining wall. Similarly, it appears that the proposed works near the end of Cliffbrook Parade are to be carried out within an area occupied by an existing grassed platform and will not encroach onto the rock shelves.

There are no known Aboriginal or Historical archaeological deposits in the area of the proposed works. It is noted that the 1875 Botany and Lachlan Watersheds map shows a distinct ridge extending out along the southern headland of "Little Coogee Bay", while the 1890s Waterboard map shows no development on the headland. It appears that the natural surface of the headland has been significantly modified to level it, and there is low potential for surviving Aboriginal archaeological material. As the headland appears not to have been occupied by early built structures, there is low potential for Historical archaeological deposits. In any case the proposed works are generally to take place in areas which are currently occupied by paved or cleared surfaces. Appropriate consent conditions should be included to advise of statutory requirements in the unlikely event that archaeological material is uncovered.

The proposed works will not physically damage the Clovelly Bay enclosure, nor adversely impact on significant views to or from the heritage item, nor adversely impact on its setting. It is considered that the proposal will not detract from the qualities identified in the National Trust Survey. The provision of the proposed Coastal Walkway link will better allow public appreciation of the natural and cultural heritage values of the landscape in the vicinity of Clovelly Bay.

Comments

Specific conditions have been recommended by the Heritage Planner, which will be incorporated into any development consent granted by Council.

Landscape assessment comments

There are no existing trees (covered by Council's Tree Preservation Order), that will be affected by this proposal. A landscape plan shall be submitted to Council prior to the commencement of landscape works.

Comments

Specific conditions have been recommended by the Landscape Architect, which will be incorporated into any development consent granted by Council.

Development engineering comments

Traffic comments

The assessing officer is advised that some of the dimensions for the proposed carpark do not comply with Council's DCP- *Parking* and AS 2890.1:2004. The matter was referred to Council's Transport Engineer- Rob Rosadi who has indicated that the minor deficiencies do not detract from the serviceability of the carpark and the carpark layout is inline with the intent of AS 2890.1:2004. Based on the feedback received from Council's Transport Engineer, the Development Engineer does not object to the proposal.

Furthermore the submitted plans indicate the disabled spaces are only 2.5m wide. After discussions with Rob Rosadi it has been determined that the three northernmost disabled spaces shall be combined to form 2 spaces and all other pairs of disabled spaces will be combined to form one space each. Furthermore, two more disabled spaces shall be provided in the south western corner of the carpark. This reconfiguration will create a total of 8 disabled spaces and therefore remains in excess of the requirements of Council's DCP- *parking*.

Drainage comments

The applicant shall provide a Gross Pollution Trap (GPT) at the stormwater discharge point at the south-western corner of the carpark.

The GPT shall be capable of collection and containment of liquids (eg grease and oils), sediments and trash and it shall treat all runoff up to the 3 month ARI.

Details of the proposed GPT device shall be submitted to Council for approval, and be approved, prior to the issue of a Construction Certificate.

Comments

Specific conditions have been recommended by the Development Engineer, which will be incorporated into any development consent granted by Council.

7. MASTER PLANNING REQUIREMENTS

Clause 40A(1) of RLEP 1998 provides that consent may be granted to a development application made in respect of a site consisting of more than 4,000m² only if: (a) a master plan has been adopted, and (b) the consent authority is satisfied that the development is not inconsistent with the provisions of that master plan.

Notwithstanding, sub-clause (2) provides that the consent authority may waive the requirement for a master plan only if it is satisfied: (a) that the proposed development is of a minor nature or is ancillary to the current use of the land, or (b) that adequate guidelines and controls applying to the land are already in place.

The subject site occupies more than 18,000m² of land area. No master plan for the site has been prepared or adopted by Council. It is considered that the master plan requirement can be waived pursuant to Clause 40(A) (2) based on the following reasons:

- The proposal does not result in any changes to the nature of the current use of the site. The existing public car park will be upgraded with additional accessible (disabled) parking spaces and dedicated pedestrian walkways. The proposed coastal promenade and footpaths will enhance the connectivity and amenity of the existing Eastern Beaches coastal walk.

- The site is subject to the provisions of Clovelly Bay Plan of Management. Accordingly, specific guidelines are already in place in relation to the proposed works.

8. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The subject site has been inspected and the application assessed having regard to the provisions of the following environmental planning instruments:

State Environmental Planning Policy (SEPP) No. 71 – Coast Protection

The relevant provisions of the SEPP are addressed as follows:

PART 1 – PRELIMINARY

Clause 2 – Aims of Policy

- (a) *To protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast.*

The subject proposal will improve public access to the coastal foreshore by creating a new pedestrian promenade and upgrading the existing car park facilities. The design of the proposed works does not contradict the coastal environment and will not adversely impact on the adjacent sea cliff landform. The development will significantly enhance the recreational value of the Clovelly Beach to Gordon's Bay section of the Eastern Beaches coastal walk.

- (b) *To protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore.*

Refer to comments above.

- (c) *To ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore.*

Refer to comments above.

- (d) *To protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge.*

There are no known Aboriginal heritage relics within the subject site. A specific condition is recommended to require the applicant to notify the Department of Environment and Climate Change should Aboriginal relics be discovered during works on the site.

- (e) *To ensure that the visual amenity of the coast is protected.*

Refer to comments above.

- (f) *To protect and preserve beach environments and beach amenity.*

Not applicable to the proposal.

- (g) *To protect and preserve native coastal vegetation.*

The area to be developed does not contain any significant native coastal vegetation.

- (h) *To protect and preserve the marine environment of New South Wales.*

The proposed works are above the mean high water mark and do not affect the marine environment. Not applicable.

- (i) *To protect and preserve rock platforms.*

The proposed works are generally limited to the existing car parking area and will not extend further towards the coastal cliffs and rock shelves.

A retaining wall is proposed to support the look-out area at the south-western corner of the site adjacent to Cliffbrook Parade. The retaining wall will rely on the rock platform for structural support. However, the above structures will only occupy a small extent of the rock platform, which stretches along the entire length of the eastern boundary of the site. Therefore, the proposed disturbance to the rock shelves is minor in nature and acceptable in this regard.

- (j) *To manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6(2) of the Protection of the Environment Administration Act 1991).*

Not applicable to the proposal.

- (k) *To ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area.*

The proposed development constitutes external works and does not include any significant building structures. The sightlines towards the ocean from any public or private domain will not be significantly affected. The design of the proposed works does not contradict the coastal environment and will not adversely impact on the visual quality of the surrounding natural landscape.

- (l) *To encourage a strategic approach to coastal management.*

Not applicable to the proposal.

Clause 4 – Land and development to which the Policy applies

Clause 4 of the SEPP states that the Policy applies to land the whole or any part of which is within the coastal zone. The site is identified to be located within the coastal zone and therefore, is subject to the provisions of the SEPP.

Clause 8 – Matters for consideration

- (a) *The aims of this Policy set out in Clause 2.*

Refer to assessment under Clause 2 of this policy. The application is considered to be compliant with the provisions of Clause 2.

- (b) *Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.*

The proposed development will provide additional accessible (disabled) parking spaces. The proposed coastal walkway, footpaths and pedestrian crossings within the car park will significantly improve the amenity and safety of the coastal foreshore. Accordingly, the development is considered satisfactory in this regard.

- (c) *Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.*

Refer to comments above.

- (d) *The suitability of development given its type, location and design and its relationship with the surrounding area.*

The proposal will upgrade the existing public car park and provide a formalised pedestrian walkway along the foreshore. The design of the works will respect the coastal environment and will not significantly obstruct views or sightlines from any public or private domain.

- (e) *Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.*

The proposal is not considered to result in overshadowing, view loss or other detrimental impacts on the coastal foreshore.

- (f) *The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.*

The design of the proposed works does not contradict the coastal environment and will not adversely impact on the adjacent sea cliff landform. The development will significantly enhance the recreational value of the Clovelly Beach to Gordon's Bay section of the Eastern Beaches coastal walk.

- (g) *Measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats.*

The site has been cleared and developed as a public car park and there is no significant native vegetation. The proposal is not considered to significantly degrade the surrounding environment as a habitat for flora or fauna.

- (h) *Measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats.*

Not applicable to the proposal.

- (i) *Existing wildlife corridors and the impact of development on these corridors.*

Not applicable to the proposal.

- (j) *The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.*

The proposed works will generally be limited to the existing public car park. However, a retaining wall is proposed to support the look-out area at the south-western corner of the site adjacent to Cliffbrook Parade. The retaining wall will rely on the rock platform for structural support. A specific condition is recommended to require all building structures to comply with the Building Code of Australia. The proposed works will be setback from the seaward edge of the rock shelves by a minimum of 25m. Therefore, the proposal is not considered to be subject to any immediate coastal hazards under normal weather conditions.

- (k) *Measures to reduce the potential for conflict between land-based and water-based coastal activities.*

Not applicable to the proposal.

- (l) *Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.*

Not applicable to the proposal.

- (m) *Likely impacts of development on the water quality of coastal water bodies.*

The development, when completed, will not result in any adverse impact on the water quality of the coastal water bodies. Specific conditions are recommended in order to ensure adequate silt and sediment control measures are implemented during works on the site.

- (n) *The conservation and preservation of items of heritage, archaeological or historic significance.*

The site is located in close proximity to the Clovelly Bay enclosure, which is classified as a heritage item under RLEP 1998. The proposed development is not considered to adversely impact on the heritage significance of the item. Refer to discussions under the "RLEP 1998" and "Technical Officers Comments" sections in this report for details.

(o) *Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,*
Not applicable.

(p) *Only in cases in which a development application in relation to proposed development is determined:*

(i) *The cumulative impacts of the proposed development on the environment:*

The subject proposal is for the construction of external works. The proposed pedestrian walkways, car park upgrade and associated landscaping are not considered to create significant cumulative impacts that degrade the surrounding environment as a habitat for flora and fauna.

(ii) *Measures to ensure that water and energy usage by the proposed development is efficient.*

The proposed lighting facilities will not require significant level of energy usage.

Sydney Regional Environmental Plan No. 14 – Eastern Beaches

Pursuant to Clause 4 of Randwick Local Environmental Plan 1998, Sydney Regional Environmental Plan No. 14 is not applicable to the proposal.

Randwick Local Environmental Plan 1998

The Clovelly Bay car park and Clovelly Surf Life Saving Club are identified as being within Zone No. 6A (Open Space Zone) under RLEP 1998. The proposed development is permissible with Council's consent. The proposal is consistent with the objectives of the zone as it will maintain public use of the site and promote enjoyment of public open space.

☐ **Clause 38 Development in open space zones**

Sub-clause (2) provides that when determining an application for consent to carry out development within Zone No. 6A, the Council must consider:

- (a) *The need for the proposed development on that land;*
- (b) *Whether the proposed development promotes or is related to the use and enjoyment of open space;*
- (c) *The impact of the proposed development on the existing or likely future use and character of the land; and*
- (d) *The need to retain the land for its existing or likely future use.*

At present, that section of coastal walkway between SLSC and Gordon's Bay is not formally established and pedestrians have to pass through the public car park in order to access Cliffbrook Parade. The proposal will significantly improve public access to the coastal foreshore by creating a new pedestrian promenade and upgrading the existing car park facilities. The development will enhance the visual quality and safety and security of the car park and surrounding open space areas. Therefore, the proposal is considered satisfactory having regard to the above provisions.

☐ **Clause 39 Unzoned land**

The proposed development covers the south-eastern portion of Cliffbrook Parade, which is a Council road reserve and has no zoning under RLEP.

Clause 39(1) provides that a person may, with the consent of the Council, carry out development on land shown unzoned on the map for the purpose of anything which is permissible on land adjoining that land.

In this respect, the proposed walkway and ancillary facilities on Cliffbrook Parade are considered permissible under the zoning table for the adjoining Zone No. 6A. Accordingly, the proposed works within the unzoned land are permissible with Council's consent.

☐ **Clause 40 Excavation and filling of land**

The proposed coastal promenade and pedestrian walkways will require minor excavation and earth filling. Specific conditions are recommended to require appropriate silt and sediments control measures to be implemented during works on the site. The proposal is not considered to result in detrimental impacts on the surrounding natural environment subject to the above conditions.

☐ **Clause 46 Development in the vicinity of heritage items, heritage conservation areas and known or potential archaeological sites**

The Clovelly Bay enclosure, including the beach, baths, promenades and associated facilities, is identified as a heritage item under RLEP 1998. The site is located in close proximity to the above local heritage item.

The proposed works will not physically damage the Clovelly Bay enclosure, nor adversely impact on significant views to and from the heritage item, nor adversely impact on its setting. It is considered that the proposal will not detract from the heritage qualities of the item. The proposed coastal promenade will better allow public appreciation of the natural and cultural heritage values of the landscape in the vicinity of Clovelly Bay.

The subject proposal has been assessed by Council's Heritage Planner, and is considered satisfactory in this regard.

8.1 Policy Controls

Development Control Plan – Parking

The relevant provisions of the DCP are addressed as follows:

Required	Proposed	Compliance
90 degree angled parking bay dimension: 5.5m (L) x 2.5m (W) Disabled parking bay dimension: 3.2m (W)	90 degree angled parking spaces: 4.7m (L) x 2.4m (W) Disabled parking spaces: 4.7m – 5.8m (L) x 2.4m – 2.8m (W)	Does not comply, refer to comments below
Parallel spaces: 6.7m (7.7m in end space)	5.2m (L) x 2.0m (W)	Does not comply, refer to comments below
Floor grade: 1:10	The car park has a flat terrain.	Satisfactory
Aisle width: 6m (one- or two-	5.7m	Does not comply,

way)		refer to comments below
Landscaping – canopy tree and screen planting	No canopy trees are provided in the car park	Does not comply, refer to comments below
Accessible (disabled) parking provision: 2-3%	4.3% (11 disabled spaces out of 252 total parking spaces)	Complies.
Bicycle parking: 1 per 10 car spaces	No bicycle parking is provided	Does not comply, refer to comments below

Parking bay and access aisle dimensions

The proposed 90-degree, parallel and accessible (disabled) parking bays do not comply with Council's DCP or Australian Standard 2890.1: Off-street car parking. The vehicular access aisles fall short of the DCP requirements by 300mm. Council's Traffic Engineer has assessed the parking design, and considers that the deficiencies in numerical dimensions do not undermine the serviceability of the car park.

A specific condition is recommended to combine each pair of accessible parking bays into one, in order to maximise convenience and safety for people with disabilities. Further, a total of two (2) additional accessible bays will be required to be provided at the south-western corner of the car park. Subject to the above condition, a total of 8 accessible spaces will be provided and satisfy the requirements of the DCP.

The proposed pedestrian footpath through the central portion of the car park has a width of 2.5m. It is considered that the width of the footpath will ensure appropriate sightlines between vehicles and pedestrians are retained, and that safety threats to pedestrians by an opening car door are minimised.

Landscaping

New turfed areas will be incorporated within the car park. However, no canopy tree planting is proposed. The provision of landscaping has to be balanced against the need for satisfying parking demand in the Clovelly Bay area. In this instance, it is considered more important to ensure adequate parking is provided on the site. Any significant reduction of parking spaces will result in overflow of parking into the surrounding local streets and detrimentally affect the amenity of the local residences, especially during the summer periods.

Bicycle parking

The proposed development is for reconfiguration of an existing car park. It is highly difficult, if not impossible, to provide bicycle parking facilities in conjunction with new pedestrian walkways and turfed areas on the site, whilst maintaining the same level of parking bays. It is considered that the proposal is acceptable in this instance.

8.2 Council Policies

Clovelly Bay Plan of Management

The above Plan of Management (POM) aims to ensure Clovelly Bay retains its environmental, scenic, recreational, cultural and social values. Specifically, one of the key strategies for the Clovelly area as a whole is to complete the Eastern Beaches coastal walk, between Gordon's Bay and Clovelly Surf Life Saving Club.

The subject site falls within the "Recreation Development Zone" as defined under the POM. The objective for this zone is to sustain high intensity visitation, provide

facilities that complement the scenic beachside location and meet visitor needs. The key strategy is to encourage broader use of the Eastern Beaches coastal walk.

Clovelly Bay is referred to in the State Government's "Design and Management Guidelines – Eastern Beaches". The POM requires that reference is to be made to the Guidelines when considering any development proposal within the area. The relevant provisions of the Guidelines include:

- Reduce the harsh effect of the concrete paved areas on the southern and northern edges of the water by introduction of contrasting paving materials.
- Reduce the size of the obtrusive car park on the southern headland and replace it by a number of small parking areas off the perimeter roads with planting to soften the area.

The proposed development is considered to be consistent with the Clovelly Bay Plan of Management and relevant State Government guidelines based on the following reasons:

- Clovelly Bay forms part of the Eastern Beaches coastal walk, which connects Bondi Beach with Maroubra Beach. At present, that section of the coastal walkway between SLSC and Gordon's Bay is not formally established and pedestrians have to pass through the public car park in order to access Cliffbrook Parade. The subject proposal will complete the Clovelly to Gordon's Bay coastal walkway by constructing a 3m to 5m pedestrian promenade. The development will effectively achieve the key strategy of the POM.
- The proposal will significantly improve the amenity, safety and security of the coastal walk and is anticipated to encourage and increase public usage.
- The proposed walkways and promenade will be constructed of concrete that incorporates colour tinting or geometric pattern. The design scheme is considered to have minimised adverse visual impact of hard-paved surfaces.
- The proposal involves upgrading of the existing landscaped area adjacent to Victory Street through the provision of additional planting and seating.
- New turfed areas will be incorporated within the car park. However, no canopy tree planting is proposed. The provision of landscaping has to be balanced against the need for satisfying parking demand in the Clovelly Bay area. In this instance, it is considered more important to ensure adequate parking is provided on the site. Any significant reduction of parking spaces will result in overflow of parking into the surrounding local streets and detrimentally affect the amenity of the local residences, especially during the summer periods.

9. ENVIRONMENTAL ASSESSMENT

The site has been inspected and the application assessed having regard to Section 79C of the Environmental Planning and Assessment Act 1979:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	Refer to “Relevant Environmental Planning Instruments” section of this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	Not applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Refer to “Policy Controls” section of this report.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F	Not applicable.
Section 79C (1) (a)(iv) – Provisions of the regulations	Not applicable.
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) The proposed works are generally confined within the existing car park and footpath area of Cliffbrook Parade, and are separated from the seaward edge of the cliff by a minimum of 25m. The development is not considered to result in detrimental environmental impacts on the coastal or marine ecology. Specific conditions are recommended to require appropriate silt and sediment control measures to be implemented during works on the site. A construction and waste management plan will also be required as a condition of consent to ensure the works are executed in a manner that minimises impacts on the surrounding natural and built environment. Subject to the above conditions, the proposal is considered satisfactory in environmental protection terms. (ii) The proposed development is not considered to result in adverse social impacts on the locality given the existing use of the site for recreational purposes. The proposal will improve the amenity, safety and security of the foreshore areas and is considered to deliver a net social benefit to the community.

Section 79C 'Matters for Consideration'	Comments
	(iii) The proposed development represents an efficient and economic use of existing recreation and parking facilities and is not considered to result in detrimental economic impacts on the locality.
Section 79C (1) (c) – the suitability of the site for the development	The subject site has been used continuously for recreational and public parking purposes for decades. The proposed development is considered to facilitate the use of the existing community resources on the site.
Section 79C (1) (d) – any submissions made in accordance with the EP&A Act or EP&A Regulation	There are six (6) submissions received at the conclusion of the public notification process. The issues raised in the submissions are addressed under the "Community Consultation" section of this report.
Section 79C (1) (e) – the public interest	The proposed development is not considered to create adverse environmental, economic or social impacts on the locality, subject to the recommended conditions of consent. Accordingly, the proposal is considered satisfactory in public interest terms.

10. RELATIONSHIP TO CITY PLAN

The relationship with the City Plan is as follows:

Outcome: Leadership in sustainability and excellence in urban design and development

Direction: Improved design and sustainability across all development

Key Action: Encourage and reward design excellence and sustainability

11. FINANCIAL IMPACT STATEMENT

There is no direct financial impact as a result of this matter.

12. CONCLUSION

The proposed development satisfies the relevant provisions of State Environmental Planning Policy No. 71 *Coastal Protection*, Randwick Local Environmental Plan 1998, Development Control Plan – Parking and Clovelly Bay Plan of Management.

The proposal will substantially upgrade that section of the Eastern Beaches coastal walkway in between the Clovelly Surf Life Saving Club and Gordon's Bay in terms of amenity and safety. The development is considered to deliver a net benefit to the wider community.

Having regard to all relevant matters for consideration, the proposal, subject to compliance with the recommended conditions, will not result in significant adverse impacts upon either the amenity of the nearby properties or the character of the locality. The application is therefore recommended for approval subject to the attached conditions of consent.

RECOMMENDATION:

- A. THAT Council, as the consent authority, grant development consent under Sections 80 and 80A of the Environmental Planning and Assessment Act, as amended, to Development Application No. 843/2007 for construction of a coastal walkway from the Clovelly Surf Life Saving Club to the pump-out station on Cliffbrook Parade, comprising pedestrian footpaths and crossings within the public car park, pedestrian plaza areas, seatings, retaining wall, landscaping and reconfiguration of the car park layout, at 413R Clovelly Road, Clovelly, subject to the following conditions:

Conditions of Consent

The following conditions are applied to satisfy the provisions of Section 79C of the Environmental Planning and Assessment Act 1979 and to maintain reasonable levels of environmental amenity:

1. The development must be implemented substantially in accordance with the following plans received by Council on 9 October 2007:

Plan Number	Prepared By	Dated
43177336 – LA-001 (Rev 3)	URS	06.08.07
43177336 – LA-002 (Rev 3)	URS	06.08.07
43177336 – LA-600 (Rev F)	URS	06.08.07

, the application form and any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans:

2. Any security lighting to the subject car park and coastal walkway shall be designed so as not to cause a nuisance to nearby residents.

The following conditions are applied to ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations:

3. 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 legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of `on-the-spot` penalty infringements or service of a notice and order by Council.

4. All new building work must be carried out in accordance with the provisions of the **Building Code of Australia** (BCA), in accordance with Clause 98 of the *Environmental Planning and Assessment Regulation 2000*.
5. **Prior to the commencement of any building works, 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 and Environmental Planning & Assessment Regulation 2000.

A copy of the construction certificate, the approved plans & specifications and development 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.

6. **Prior to the commencement of any building works**, the person having the benefit of the development consent must:-

- i) appoint a *Principal Certifying Authority* for the building work, and
- ii) appoint a *principal contractor* for the building work, and notify the *Principal Certifying Authority* and Council accordingly in writing, and
- iii) notify the *principal contractor* of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*, and
- iv) give at least two days notice to the Council, in writing, of the person's intention to commence building works.

7. The building works must be inspected by the *Principal Certifying Authority* (or another *certifying authority* if the *Principal Certifying Authority* agrees), in accordance with sections 109 E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

The *Principal Certifying Authority* must specify the relevant stages of construction to be inspected in accordance with clause 81A (2) (b1) (ii) of the Environmental Planning & Assessment Regulation 2000 and a satisfactory inspection must be carried out, to the satisfaction of the *Principal Certifying Authority*, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

Documentary evidence of the building inspections carried out and details of compliance with Council's consent is to be maintained by the *Principal Certifying Authority*. Details of *critical stage inspections* carried out and copies of certification relied upon must also be forwarded to Council with the *occupation certificate*.

The *principal contractor* must ensure that the required critical stage and other inspections, as specified in the *Principal Certifying Authority's* **"Notice of Critical Stage Inspections"**, are carried out to the satisfaction of the *Principal Certifying Authority* and at least 48 hours notice (excluding weekends and public holidays) is to be given to the *Principal Certifying Authority*, to carry out the required inspection, before carrying out any further works.

8. 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,

- name, address and telephone number of the *Principal Certifying Authority*,
 - a statement stating that "unauthorised entry to the work site is prohibited".
9. An **Occupation Certificate** must be obtained from the Principal Certifying Authority **prior to any occupation of the building work** encompassed in this development consent, in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The relevant requirements of the Environmental Planning & Assessment Act 1979 and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

10. **Prior to the issuing of an interim or final occupation certificate**, a statement is required to be obtained from the Principal Certifying Authority, which confirms that the development is not inconsistent with the development consent and the relevant conditions of development consent have been satisfied.

Details of *critical stage* inspections carried out by the principal certifying authority together with any other certification relied upon must also be provided to Council with the occupation certificate.

11. The required Long Service Levy payment, under the Building and Construction Industry Long Service Payments Act 1986, is to be forwarded to the Long Service Levy Corporation or the Council, **prior to the issuing of a Construction Certificate**, 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.

The following conditions are applied to ensure that the development satisfies relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

12. A Construction Management Plan is to be submitted to and approved by the principal certifying authority **prior to the commencement** of demolition, excavation or building works. The management plan must include the following measures, as applicable to the type of development:
- The proposed phases of construction works on the site, and the expected duration of each construction phase. The scheduling of construction works is to avoid the summer peak seasons where visitor traffic and parking demand in the Clovelly Bay and Gordon's Bay areas are at high levels.
 - The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
 - The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development / construction process.

- 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.
- 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.
- Construction noise and vibration management.
- The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area.

The site management measures are to be implemented prior to the commencement of any site works and be maintained throughout the works, to maintain adequate levels of public health and safety. A copy of the approved Construction Management Plan must be maintained on site and be made available to Council officers upon request.

13. The demolition of buildings and the removal, storage, handling and disposal of building materials must be carried out in accordance with the following regulations:
- The requirements and Guidelines of WorkCover NSW
 - Occupational Health and Safety Act 2000
 - Australian Standard 2601 (2001) – Demolition of Structures
 - The Protection of the Environment Operations Act 1997
 - Protection of the Environment Operations (Waste) Regulation 1996.
14. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures.

The Work Plan must include the following information (as applicable):

- The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor
- Details of hazardous materials, including asbestos
- Method/s of demolition and removal of asbestos
- Measures and processes to be implemented to ensure the health & safety of workers and community
- Measures to be implemented to minimise any airborne asbestos and dust
- Methods and location of disposal of any asbestos or other hazardous materials
- Other relevant details, measures and requirements to be implemented as identified in the Asbestos Survey
- Date the demolition and removal of any asbestos materials will commence

The Demolition Work Plan must be submitted to Council and the Principal Certifying Authority (PCA) if the Council is not the PCA, not less than two (2) working days **before commencing any demolition works** involving asbestos products or materials. A copy of the Demolition Work Plan must also be maintained on site and be made available to Council officers upon request.

Note it is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.

15. All excavations and backfilling associated with the erection or demolition of a building / structure must be executed safely in accordance with appropriate professional standards and excavations are to 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.

Retaining walls, shoring, or piling must be designed and installed in accordance with appropriate professional standards and the relevant requirements of the Building Code of Australia and Australian Standards. Details of proposed retaining walls, shoring or piling are to be submitted to and approved by the Principal Certifying Authority for the development prior to commencing such excavations or works.

16. Except with the written approval of Council's Manager of Health, Building & Regulatory Services, all building, demolition and associated site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and Public Holidays.

In addition, the use of any rock excavation machinery or any mechanical pile drivers or the like, is restricted to the hours of 8.00am to 5.00pm (maximum) on Monday to Friday only, to minimise the noise levels during construction and loss of amenity to nearby residents.

17. Noise and vibration emissions during the construction of the building / structures 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 provisions of the *Protection of the Environment Operations Act 1997* must be satisfied at all times.

Noise and vibration from any rock excavation machinery and pile drivers (or the like) must be minimised by using appropriate plant and equipment and silencers and a construction noise and vibration minimisation strategy, prepared by a suitably qualified consultant is to be implemented during the works, to the satisfaction of the Principal Certifying Authority.

18. 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.

19. Public safety must be maintained at all times and public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.

A temporary safety fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5 metres). Temporary fences are to have a minimum height of 1.8 metres and be constructed of cyclone wire fencing, with geotextile fabric attached to the

inside of the fence to provide dust control, or other material approved by Council.

Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

The public safety provisions and temporary fences must be in place **prior to the commencement of any demolition, excavation or building works** and be maintained throughout construction.

If it is proposed to locate any site fencing, hoardings or amenities upon any part of the footpath, nature strip or public place, the written consent from Council's Building Services section must be obtained beforehand and detailed plans are to be submitted to Council for consideration, together with payment of the weekly charge in accordance with Council's adopted fees and charges.

20. During construction stages, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban Stormwater – Soils and Construction, published by the NSW Department of Housing.

Details of the proposed sediment control measures are to be detailed in the Construction Management Plan which must be submitted to and approved by the principal certifying authority **prior to the commencement of any site works**. The sediment and erosion control measures must be implemented prior to the commencement of any site works and be maintained throughout construction. A copy of the approved details must be forwarded to the Council and a copy is to be maintained on-site and be made available to Council officers upon request.

Details of proposed sediment and erosion control measures shall include: a site plan, indicating the slope of land, access points & access control measures, location and type of sediment & erosion controls, location of existing vegetation to be retained, location of material stockpiles and storage areas, location of building operations and equipment, methods of sediment control, details of drainage systems and details of existing and proposed vegetation.

21. 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. Building materials, sand, soil, waste materials, construction equipment or other activities must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.
 - b. Stockpiles of soil, sand, aggregate or other materials must not be located on any footpath, roadway, nature strip, drainage line or any public place and the stockpiles must be protected with adequate sediment control measures.
 - c. Building operations such as brick cutting, washing tools or equipment and mixing mortar are not permitted on public footpaths, roadways, nature strips, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system.

- d. A warning sign for soil and water management must be displayed in a prominent position on the building site, visible to both the public and site workers. The sign must be displayed throughout the construction period. Copies of a suitable warning sign are available at Council's Customer Service Centre for a nominal fee.
- 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 section.
- f. Any part of Council's road, footway or nature strip which is damaged as a result of the work must be repaired or replaced to Council's satisfaction prior to occupation or finalisation of the development.

The following conditions are applied to ensure that adequate provisions are made for the management of waste from the development:

22. A demolition and construction Waste Management Plan (WMP) must be developed and implemented for the development, to the satisfaction of Council, **prior to the commencement of works.**

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.

The following conditions are applied to provide adequate provisions for access, transport and infrastructure:

23. The proposed parking spaces are to be line-marked in accordance with the approved development plans. Where appropriate, safety and directional signage is to be provided consistent with the provisions of Section 4.3 of Australian Standard 2890.1: Off-street car parking.
24. The three northern-most accessible (disabled) parking spaces adjacent to the Clovelly Surf Life Saving Club shall be combined to form two (2) accessible parking spaces. Additionally, each pair of proposed accessible spaces shall be combined to form one (1) accessible space.

Furthermore, two (2) additional accessible spaces shall be provided at the south-western corner of the car park, adjacent to the entry / exit point on the southern end of Victory Street. The above spaces may be formed by converting four standard 90-degree angled spaces.

Details demonstrating compliance with the above requirements are to be submitted to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

25. A total of eight (8) standard parking spaces (NOT being disabled spaces) are to be reserved for the exclusive use by the Surf Life Saving Club's duty patrol members. Appropriate line-marking and signs are to be provided to this effect.

Details demonstrating compliance with the above requirements are to be submitted to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

The following conditions are applied to provide adequate consideration for service authority assets:

26. A public utility impact assessment must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.

The following conditions are applied to provide adequate provisions for drainage and associated infrastructure:

27. Detailed drainage plans, prepared by a qualified and practising hydraulic engineer, shall be submitted to and approved by the certifying authority prior to the issue of a construction certificate. The drainage plans shall demonstrate compliance with the conditions of this development approval.
28. A Gross Pollution Trap (GPT) is to be provided at the stormwater discharge point at the south-western corner of the car park.

The GPT shall be capable of collection and containment of liquids (eg grease and oils), sediments and trash and it shall treat all runoff up to the 3 month ARI.

Details of the proposed GPT device shall be submitted to, and approved by, Council, prior to the issue of a Construction Certificate.

The following conditions are applied to provide adequate provisions for landscaping and to maintain reasonable levels of environmental amenity:

29. A landscape plan at an appropriate scale, detailing the location of all proposed planting shall be submitted to, and approved by, the Principal Certifying Authority (PCA), prior to the issue of a construction certificate, and shall include the following:
- a. Location of all existing vegetation likely to be affected by the proposed works, including position of their trunks and extent of their driplines/canopies, and whether they are nominated for retention or removal;
 - b. Species selection that is limited to only those native species which are capable of withstanding a harsh, frontline coastal environment, comprising a suitable mixture of appropriately selected and located groundcovers, accent/feature species, plants, shrubs and trees;
 - c. The selected plant species are to have a mature height of not more than 3m in order to maximize sea views from the public and private domain;
 - d. All proposed plants to be shown at their full size at maturity;

- e. A plant schedule which details all proposed species, their pot size at the time of planting and quantity;
 - f. Additional notation showing soil, mulch and staking details, edging, paving, fencing details, surface finishes, retaining wall details, and any other landscape elements in sufficient detail to fully describe the proposed landscape works.
30. The approved landscape works shall be installed, to the satisfaction of the Principal Certifying Authority, prior to the issue of a final occupation certificate.
31. Approval is granted for the removal of any existing vegetation at the site which needs to be removed in order to accommodate the proposed works, and is subject to implementation of the approved landscape plan.
32. Any damage sustained to public areas as a result of the works proposed in this application shall be fully reinstated, to the satisfaction of Council's Director of City Services, prior to the issue of a final occupation certificate.

The following conditions are applied to protect the significance of heritage items in the vicinity to the site:

33. Where required, repair works are to be undertaken in respect of the existing sandstone block retaining walls along the seaward edge of the car park as part of the proposed works. An appropriate soft mortar is to be used to minimise further weathering of sandstone blocks.
34. In the unlikely event that Aboriginal archaeological remains or deposits are exposed during works on the site, all work is to cease and the Department of Environment and Climate Change is to be notified under the requirements of the National Parks and Wildlife Act 1974.
35. In the unlikely event that Historical archaeological remains or deposits are exposed during the works, all work is to cease and the NSW Heritage Office is to be notified under the requirements of the Heritage Act 1977.

The following condition is applied to ensure appropriate access control to pedestrian walkways:

36. Bollards or other appropriate access control devices are to be installed in a suitable location at the corner of Cliffbrook Parade and Victory Street, in order to restrict access to the pumping station on Cliffbrook Parade to Sydney Water, Council or other authorised personnel and vehicles. Details demonstrating compliance with the above requirements are to be submitted to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

ADVISORY MATTERS:

- A1 **Building or excavations works must not be commenced until a construction certificate has been obtained from Council's Building Certification Services or an Accredited Certifier and either Council's Building Certification Services or an Accredited Certifier has been appointed as the Principal Certifying Authority (PCA) for this development.**

Failure to obtain a Construction Certificate and appoint a PCA before commencing works is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million under the Environmental Planning & Assessment Act 1979.

A2 A local approval application must be submitted to and be approved by Council's Building Services section 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.

ATTACHMENT / S:

Nil

.....
SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
SIMON IP
**SENIOR DEVELOPMENT
ASSESSMENT OFFICER**

Director, City Planning Report 104/2007



SUBJECT:	438-448 Anzac Parade, KINGSFORD		
DATE:	15 November, 2007	FILE NO:	DA/679/2007 & PROP011720

REPORT BY: DIRECTOR, CITY PLANNING

INTRODUCTION:

Attached is Development Assessment Report for demolition of existing structures on site and construction of a part 7-storey mixed use development comprising 3 retail units, a restaurant, a new Castellorizian Club, 66 residential apartments and basement parking for 122 vehicles at No. 428-448 Anzac Parade, Kingsford.

RECOMMENDATION:

That Council consider and determine the development application in accordance with the recommendations contained in the attached report.

ATTACHMENT / S:

Development Application Report dated 31 October 2007.

.....
SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
SIMON IP
**SENIOR DEVELOPMENT
ASSESSMENT OFFICER**

Development Application Report



REPORT BY: DIRECTOR, CITY PLANNING

DATE:	31 October, 2007	FILE NO:	DA/679/2007 & PROP011720

PROPOSAL:

Demolition of existing structures on site and construction of a part 3- and part 7-storey mixed use development comprising 3 retail units, a restaurant, a new Castellorizian Club, 66 residential apartments and basement parking for 122 vehicles

PROPERTY:

438-448 Anzac Parade, KINGSFORD

WARD:

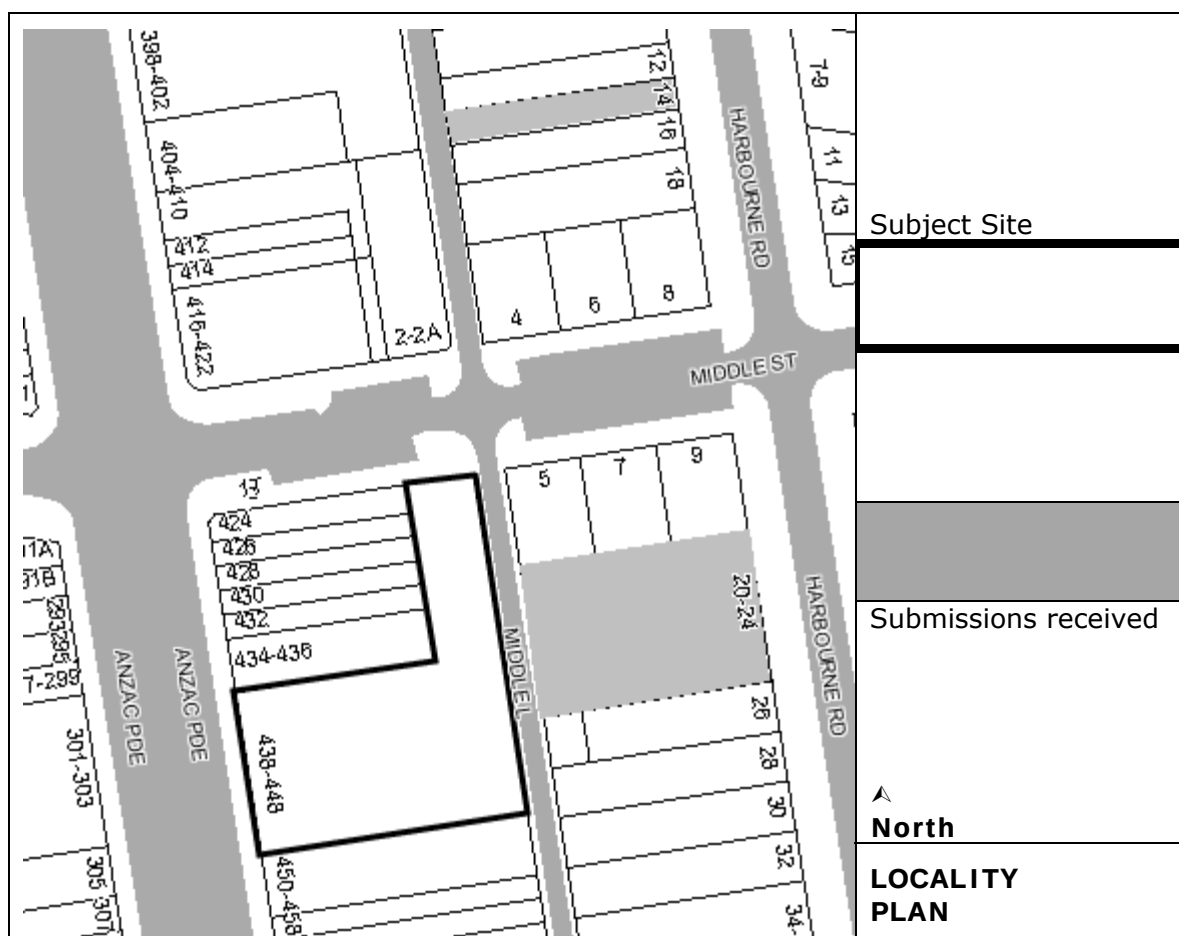
West Ward

APPLICANT:

Exceland Property Group (NSW) P/L

OWNER:

The Castellorizian Club Ltd



1. EXECUTIVE SUMMARY

The subject application is for demolition of existing structures on site and construction of a part 3- and part 7-storey mixed use development comprising 3 retail units, a restaurant, a new Castellorizian Club, 66 residential apartments and basement parking for 122 vehicles.

The subject site presents an L-shape in plan view and has frontages towards Anzac Parade, Middle Lane and Middle Street. The site has a land area of 2227m². The allotment is benefited by a 3.05m wide right-of-carriageway over the rear portion of properties to the north. The site is located within the Kingsford Commercial Centre and the surrounding developments are characterised by a mixture of commercial, retail and apartment style residential housing.

The "O'Dea's Corner" at Nos. 424-432 Anzac Parade is classified as a heritage item under Randwick Local Environmental Plan (RLEP) 1998. The site is separated from the above item by No. 436 Anzac Parade.

The existing Castellorizian Club was constructed in the early 1970s and comprises 1828m² of floor space with loading facilities and off-street parking for 34 vehicles to the rear.

A total of three (3) submissions were received at the conclusion of the public notification period. The issues raised are in relation to development density, architectural character, traffic and parking, solar access, privacy, noise and construction impacts during works on the site. The submission issues have been satisfactorily addressed within the body of this report.

The site is identified as being within Zone No. 3A (General Business Zone) under RLEP 1998. The proposed land uses are consistent with the zoning objectives in that the development will reinforce the vibrancy of the Kingsford Commercial Centre by introducing retail, entertainment and residential uses in close proximity to public transport services.

The proposal has a height of 27.5m as measured from the existing ground level to the topmost point of the building, being the shelter structure on the rooftop terrace, and does not comply with the development standard of RLEP 1998. The applicant has submitted an objection under State Environmental Planning Policy (SEPP) 1 – Development Standards justifying that the breach will not result in significant adverse amenity or visual impacts. The objection has been assessed and is supported.

SEPP 11 Traffic Generating Development is applicable to the proposal. Pursuant to Clause 7(4) of the policy, the application has been referred to the Roads and Traffic Authority for comments. The proposal also includes a balcony that encroaches onto the air space of the Anzac Parade road reserve, which will require concurrence of the RTA under Section 138 of the Roads Act 1993. On 9 November 2007, the RTA granted concurrence to the proposal subject to conditions.

The applicant has submitted a preliminary environmental site assessment report, which suggests that the site is suitable for the proposed uses. No detailed contamination and remediation report as required under SEPP 55 Remediation of Land is deemed necessary.

The application includes an internally illuminated projecting wall sign of 1.2m (width) x 7.0m (height) in dimension. SEPP 64 Advertising and Signage and Council's Outdoor Advertising Development Control Plan (DCP) are applicable to the proposal.

The proposed signage is not considered to be consistent with the desired character of Anzac Parade and the Kingsford Commercial Centre. Therefore, it is recommended that the signage component be deleted from the current proposal via a specific condition of consent. Any proposed signage will require the approval of Council under a separate development application.

SEPP 65 Design Quality of Residential Flat Development is applicable to the proposal. The overall form and detailing of the building, arrangement of open space areas and landscape design are appropriate and suitable for the site. The majority of the apartment units will receive adequate natural lighting and cross ventilation. The proposed architectural composition, fenestration treatment and external finishes of the building achieve a contemporary design response that enhances the streetscape character of Anzac Parade. The proposal satisfies the matters for consideration stated in the SEPP.

The Kingsford Commercial Centre DCP specifies detailed built form and setback controls for developments within the Kingsford town centre precinct, and is applicable to the subject proposal. The building height, setbacks, landscaped open space provision, site frontage and façade treatment of the development substantially comply with the provisions of the DCP and are considered satisfactory.

The proposed parking provision for residential uses generally complies with Council's Parking DCP. The design scheme has adopted a shared parking arrangement between retail, restaurant and residential visitors, which is considered reasonable given that the peak parking demand between uses will occur at different times of the day.

In relation to the club use, the existing club has a floor area of 1,828m² and off-street car parking for 34 vehicles. The proposed new club has an area of 1,152m² (being 676m² less than the existing club) and off-street parking for 30 vehicles. The amount of club floor space has been significantly reduced and the proposed new club is anticipated to generate a lower parking demand. The site is located within the Kingsford Commercial Centre and has convenient access to public bus and taxi services. It is anticipated that a significant portion of club patrons will utilise public transport and that car pooling between related patrons will be a common practice. Therefore, the proposed parking provision is considered acceptable.

The proposal has included a cantilevered accessible awning on the first floor level fronting Anzac Parade. The balcony is unroofed and is substantially open in nature. The balcony does not present as an enclosed structure of excessive building bulk, and will not result in significant visual impacts on the curtilage of the heritage item to the north.

However, the feature blade walls will result in a significant visual bulk and is not consistent with the streetscape character of Anzac Parade. Amended plans will be required as part of a deferred commencement condition to delete or significantly modify this element of the proposal, prior to an operational consent being granted. Subject to the above condition, the proposal is considered to satisfy the provisions of the Footpath Dining and Trading DCP.

The proposed development satisfies the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, as amended.

The proposed development satisfies the relevant legislation, State policies and local planning controls, and is recommended for approval by deferred commencement.

2. THE PROPOSAL

The subject proposal is for demolition of the existing structures on site and construction of a mixed-use development comprising the following:

- 66 x apartment units (4,019m² GFA)
- 1 x licensed club with outdoor terrace to the rear of the site (1,152m² GFA)
- 1 x restaurant with balcony fronting Anzac Parade above footpath (283m² GFA)
- 3 x retail tenancies (507m² GFA)
- Off-street parking for 122 vehicles and 23 bicycle racks over two basement levels
- Loading and garbage storage facilities
- An internally-illuminated projected wall sign of 1.2m (width) x 7.0m (height) in dimension, displaying "Cazzie" letterings for identification of the proposed club premises

The development will present as a 7-storey (excluding rooftop terrace level) mixed commercial and residential building, with an attached 3-storey residential flats block.

Description of the proposal by levels:

Level	Land use
B2	Car park ☐ 63 x resident's car spaces, including 4 accessible (disabled) spaces ☐ 7 x bicycle racks ☐ Storage units for residential apartments
B1	Car park ☐ 2 x resident's car spaces ☐ 4 x residential visitor / car wash spaces ☐ 30 x club spaces ☐ 6 x retail spaces ☐ 17 x retail / restaurant / residential visitor spaces, including 2 accessible (disabled) spaces ☐ 16 x bicycle racks ☐ Storage units for residential apartments
G/F	Retail / Residential ☐ 5 x 2-bedroom units ☐ 3 x retail tenancies ☐ Loading dock and garbage rooms
1/F	Club / Restaurant / Residential ☐ 1 x Licensed Club ☐ 1 x Restaurant ☐ 5 x 1-bedroom units
2/F	Residential ☐ 5 x studio units ☐ 12 x 1-bedroom units

	☐ 1 x 2-bedroom unit (living areas only, with bedrooms on 3/F) ☐ Communal open space
3 / F	Residential ☐ 1 x studio unit ☐ 9 x 1-bedroom units ☐ Bedroom areas of a 2-bedroom unit below
4 / F	Residential ☐ 1 x studio unit ☐ 9 x 1-bedroom units
5 / F	Residential ☐ 1 x studio unit ☐ 8 x 1-bedroom units
6 / F	Residential ☐ 1 x studio unit ☐ 8 x 1-bedroom units
7 / F	Roof-top terrace ☐ Communal open space

Dwelling mix summary:

Apartment type	Number
Studio	9
1-bedroom	51
2-bedroom	6

Floor space ratio summary:

Land use	Floor space ratio
Site area	2,227m ²
Residential	4,019m ² GFA: 1.80:1
Non-residential	Retail 507m ² + Club 1152m ² + Restaurant 283m ² Total 1,942m ² GFA: 0.87:1
Total	5,961m ² : 2.68:1

Estimated total construction cost \$17,197,553 (\$15,634,139 excluding GST)

3. THE SUBJECT SITE AND SURROUNDING AREA:

The subject site is described as Lot 12 in DP 793843, No. 438 to 448 Anzac Parade, Kingsford. The site is located on the eastern side of Anzac Parade, between Middle and Meeks Street, and presents an "L" shape in plan view. The dimension and land area of the site are summarised in the table below:

Boundary	Length	Land Area
Northern, side boundary	11.885m to Middle Street, 39.93m to No. 436 Anzac Parade	
Southern, side boundary	53.34m	
Eastern, Middle Lane boundary	66.745m	
Western, Anzac Parade boundary	32.835m	
		2227m ²

The site is benefited by a 3.05m wide right-of-carriageway from Middle Street over the rear portion of properties at Nos. 424 to 436 Anzac Parade.

At present, the site accommodates a part 2- and 3-storey commercial building occupied by the Castellorizian Club. The existing development has a floor area of approximately 1,828m², with loading facilities and off-street parking for 34 vehicles at the rear. The parking area is accessible from both Middle Street and Middle Lane.

The site is located within the Kingsford Commercial Centre and the surrounding land uses are characterised by a mixture of commercial, retail and apartment style residential housing. The adjoining developments to the site include:

To the north	The site is adjoined to the north by Nos. 424 to 436 Anzac Parade, which comprise a series of attached double-storey commercial buildings. The buildings at Nos. 424 to 434, known as the "O'Dea's Corner", are identified as a heritage item under Randwick Local Environmental Plan 1998.
To the south	Immediately to the south of the site is No. 450-458 Anzac Parade, which is being redeveloped into an 8-storey mixed residential and commercial building pursuant to Development Consent 1206/2001. Further to the south are a range of 2- to 3-storey commercial buildings.
To the west	The site is bordered by Anzac Parade on its western boundary. The western side of Anzac Parade opposite to the site accommodates a 10-storey mixed residential and commercial building and a range of 2- to 3-storey retail premises with shop-top housing above.
To the east	The site is bordered by Middle Lane on its eastern boundary, which accommodates one-way traffic. The eastern side of Middle Lane opposite to the site includes: ☐ A single-storey dwelling house with garage at No. 5 Middle Street ☐ A 4-storey residential flat building at Nos. 20-24 Harbourne Road ☐ Single-storey dwelling houses with detached garages at Nos. 28 and 30 Harbourne Road



Photo 1 Existing Castellorizian Club, with redevelopment of No. 450-458 Anzac Parade substantially completed



Photo 2 The "O'Dea's Corner" heritage item at No. 424-432 Anzac Parade to the north of the site



Photo 3 The right-of-carriageway along the rear of No. 424-436 Anzac Parade



Photo 4 Existing developments along the eastern side of Middle Lane

4. SITE HISTORY

Previous development consents relevant to the site:

DA141/1998	Nos. 438-448 Anzac Parade (subject site) Demolition of existing structures and construction of an 8-storey mixed-use building comprising 2 retail tenancies, 58 apartments and parking for 82 vehicles. Approved by Council on 10 November 1998 The consent was not acted upon and lapsed on 11 November 2003
DA200/1998	Nos. 438-448 Anzac Parade (subject site) Demolition of existing structures and construction of an 8-storey mixed-use building comprising 2 retail tenancies, club facilities, 47 apartments, parking for 89 vehicles and Strata subdivision Approved by Council on 10 November 1998 The consent was not acted upon and lapsed on 11 November 2003
1206/2001	Nos. 450-448 Anzac Parade (adjoining site) Construction of mixed-use development with 20 apartments, 2 shops, 11 offices and car parking for 44 cars Approved by Council on 4 July 2002

5. COMMUNITY CONSULTATION:

The subject application has been notified by letter dated 31 August 2007 to 157 adjoining and nearby properties, and advertised in the local newspaper, in accordance with Council's Development Control Plan for Public Notification of

Development Proposals and Council Plans. The notification period ended on 19 September 2007.

5.1 Objections

A total of three (3) submissions were received at the conclusion of the public notification process:

- E Munzfeld, 11 / 20-24 Harbourne Road, Kingsford
- P Ashton, 14 Harbourne Road, Kingsford
- Max Sgammotta Architects acting on behalf of Apex Developments in relation to the property at Nos. 450-458 Anzac Parade

The issues raised in the submissions are addressed as follows:

Issues	Comments
Development density	
The locality has been over developed with multi-unit, high-rise buildings.	The Randwick City Plan seeks to encourage higher development densities along main public transport routes, in Town Centres and around key areas of activity and employment, particularly the UNSW and Randwick Hospital precincts. The Plan notes that it is important to encourage a mix of services and residential uses in these areas. The site is located within the Kingsford Commercial Centre, in close proximity to public transport and major institutions (i.e. the UNSW, Randwick TAFE and Prince of Wales Hospital). In this respect, the proposal is consistent with Council's strategic planning objectives.
Built form and internal amenity	
Appropriateness of the proposed restaurant balcony on first floor level	The proposed restaurant balcony is an open area with a glazed wall behind, which is aligned with the street boundary. The balcony design has been refined following consultation with Council's officers. The original protruding glazed screen wall enclosing the balcony has been deleted. The proposed balcony is substantially open in nature, and will not result in significant visual impacts on the O'Dea's Corner heritage item when viewed from the street. Powder-coated aluminium and glass balustrades of 1.1m in height will be installed along the edge of the balcony, which is compatible with the open nature of the structure. The proposed balcony will further enliven and activate the Anzac Parade frontage of the development. Notwithstanding, it is considered that the feature beam and fin structures for solar control and visual interest purposes will result in significant building bulk and will detract from the Anzac Parade streetscape. A deferred commencement condition is recommended to require this element to be deleted or substantially modified to minimise visual intrusion. Subject to the above condition, the proposal is considered to be satisfactory.
The proposal should adopt a 2-block design, where a central courtyard should be	The proposed built form substantially complies with the relevant planning controls and has minimised potential amenity impacts on the adjacent

located in the middle of the site.	developments.
Insufficient natural ventilation to Units G.01-G.05	The units in question have incorporated operable windows on both the eastern and western elevations and will achieve natural cross ventilation.
Various BCA compliance issues in relation to protection of openings and the like	A specific condition is recommended to require the proposed works to comply with the Building Code of Australia. Further details demonstrating compliance with the above requirements will be submitted to, and approved by, the Principal Certifying Authority prior to the issue of any Construction Certificate.
Traffic and parking	
The development will further reduce on-street parking in the surrounding areas.	The proposed development is considered to have provided adequate on-site parking facilities for occupants and visitors (refer to the "Parking DCP" section of this report for details.) It is also anticipated that a number of the visitors to the retail / commercial premises and residents would utilise public transport along Anzac Parade. The proposal is not considered to significantly reduce on-street parking in the surrounding areas.
The development will significantly increase traffic in the surrounding road system and result in congestion and noise.	The applicant has submitted a traffic report prepared by Transport and Traffic Planning Associates. The report notes that given the site's high level of accessibility to the arterial road network, the predicted traffic generation (i.e. a maximum of 70-75 trips per hour at peak time) would not result in significant adverse traffic-related impacts. The site is located immediately adjacent to Anzac Parade, which is an arterial road with high levels of traffic. The proposed development is not considered to result in significant additional perceivable noise above the background noise levels.
The development will result in traffic congestion on Middle Lane.	The development has sufficient room within the driveway to the basement parking levels to accommodate vehicles awaiting the opening of the security gate, so that vehicles will queue within the site and hence will not obstruct passing traffic on Middle Lane. All delivery vehicles will be accommodated within the loading dock to the rear of the ground floor level. The loading dock has sufficient clearance and dimension to accommodate 2 small rigid vehicles (SRV) simultaneously. It is also anticipated that the retail and club tenancies will advise their respective suppliers as to the height and configuration of the loading dock, so that suitable types of delivery vehicles will be used to access the building.
Pedestrian safety on Middle Lane	The proposal has provided a 0.6m to 1.2m setback to Middle Lane in order to create a footpath with appropriate kerbing. The development has been configured to improve pedestrian safety along Middle Lane.
Safety issues associated with the proposed loading dock design	The submitted traffic report has included turning circle diagrams, which demonstrate that a 7.2m rigid vehicle is able to manoeuvre efficiently into and out

	of the site, while another delivery truck is parked within the loading dock. Additionally, the driveways are setback from Middle Lane with adequate sightlines, which will maximise visibility of the laneway. The loading dock has a clearance of 3.6m to 3.725m at the entry point, with internal clearance of 3.6m to 3.65m. As demonstrated in the information provided to Council, this level of clearance will satisfy the requirements of a small rigid vehicle (SRV) and garbage collection, brewery delivery and removalist vehicles anticipated to be used by the club and residents.
Amenity	
View loss to local residents in Harbourne Road	There are no known significant views or vistas currently enjoyed by properties on the western side of Harbourne Road, which would be affected by the proposal. Further, it is noted that the subject proposal is generally compliant with relevant built form controls.
Overlooking of Nos. 20-24 Harbourne Road and 450-458 Anzac Parade	The proposal incorporates the following design features to minimise adverse privacy impacts on the adjacent properties: ☐ The eastern elevation is progressively stepped back to minimise overlooking from the upper levels apartment units. ☐ A 1.8m high solid acoustic screen wall is proposed to the outdoor terrace attached to the club premises. ☐ The circulation corridors / breezeways on the southern side of the building have incorporated fixed opaque louvre screens to minimise overlooking into Nos. 450-458 Anzac Parade. ☐ The communal roof top terraces are setback from the edges of the building and are partially screened by the lift overruns and staircase enclosures and planter beds.
Overshadowing impacts in relation to Nos. 20-24 Harbourne Road and Nos. 450-458 Anzac Parade	<u>Nos. 20-24 Harbourne Road</u> Nos. 20-24 Harbourne Road is a 4 level building comprising 3 levels of apartments over at-grade garages. The building is located to the east of the site across Middle Lane. The western elevation of the building, which faces the site, contains windows that appear to be associated with bedrooms and bathrooms. The living rooms and balconies appear to be oriented to the north and south, away from the site. The proposed development does not give rise to any overshadowing of Nos. 20-24 Harbourne Road between 9am and 12 noon on the winter solstice. The submitted shadow diagrams indicate that some overshadowing of the western elevation will occur at 3pm, June 21. Therefore, the proposal is not considered to result in unreasonable shadow impacts on the property in question. <u>Nos. 450-458 Anzac Parade</u>

	Nos. 450-458 Anzac Parade is located to the immediate south of the site. Level 1 of the above building accommodates car parking and office suites. The lower levels (being levels 2 and 3) have been configured such that the north-facing units are commercial suites and not residential apartments, according to Council's approved drawings. The residential apartments at the lower levels are oriented to the east and west, with frontage to Middle Lane and Anzac Parade respectively. The applicant has submitted shadow diagrams for the period between 9am and 3pm on 21 June, to depict potential impact of the proposal on the approved development at Nos. 450-458 Anzac Parade. Of the 20 residential units within the development, only 6, which are oriented to the north, are affected by overshadowing from the proposal on 21 June. Therefore, the majority of residential units within the development receive at least 2 and generally 3 hours of solar access in mid-winter. Given the orientation of the subject site and its location within a densely developed urban setting, some overshadowing impacts are inevitable. The proposal is considered acceptable in this regard.
Noise generation associated with the use and operation of the club premises / noise generated by the club during night hours	An acoustic report, revised 1 November 2007, has been submitted for assessment. The report recommends a number of measures to minimise noise impacts on the surrounding residents, including: ☐ A 1.8m high imperforate screen wall along the full length of the outdoor terrace to the club for minimising noise transmission to neighbouring properties. ☐ Acoustic ceiling panels are proposed to the ceiling of the outdoor terrace for reducing noise transmission. ☐ Air-locks with automatic self-closing doors are proposed to the doorway of the outdoor terrace, for minimising noise transmission from the interior space of the club to the exterior. In addition, specific conditions will be recommended to specify the opening/closing hours of the outdoor terrace and maximum noise emission levels, as well as to restrict the loading and unloading and garbage collection hours. Therefore, subject to the above design measures and the recommended conditions, the proposal is considered acceptable in this regard.
Adverse impacts in relation to personal safety and security in Middle Lane	The proposed development has incorporated various balconies and windows on the eastern elevation, which will provide casual surveillance of Middle Lane. The development is considered to minimise potential for anti-social behaviour in the vicinity of the site.
Air pollution from car park exhaust	The discharge point for the basement car park will be sited in accordance with the provisions of the Building Code of Australia, in order to minimise potential impacts on the surrounding residents. A standard

	condition will be recommended to require the proposed works to comply with the Building Code of Australia.
Insufficient information has been provided to demonstrate the building's relationship to No. 450-458 Anzac Parade / visual privacy	The drawings of the proposal have been amended to incorporate the approved floor plans and elevations of the development at Nos. 450-458 Anzac Parade. The layout of Units 2.13, 3.10, 4.11, 5.09 and 6.09 have been reconfigured, so that no blank walls will directly front the northern courtyard areas of Nos. 450-458. The southern elevation of the proposed development is setback from the shared boundary of Nos. 450-458 by incorporating a communal courtyard. Privacy screening has been installed along the corridors / breezeways on the southern side of the proposed building, which will minimise overlooking into the apartment units of Nos. 450-458. Additionally, a planter bed is proposed on the southern side of the communal terrace on level 2. This will be planted with a number of species with a mature height reaching 2 to 3m, which will provide additional privacy screening.
Social and economic dimensions	
Inappropriate mix of units	It is acknowledged that the proposed residential units are predominantly 1-bedroom or studio apartments. Notwithstanding, the proposed mix of units has been determined having regard to the following factors: ☐ The proximity of the site to UNSW, Randwick TAFE and Prince of Wales Hospital, where there is a strong market from students, hospital staff and younger couples. ☐ The intention to provide residential units in a highly accessible location, which are more affordable, by virtue of their size and configuration. In this respect, the mix of units is considered acceptable having regard to the context of the site.
Disabled access	An access report has been submitted demonstrating the proposal's compliance with the accessibility provisions of the Building Code of Australia and relevant Australian Standards. A specific condition is recommended to ensure that relevant provisions of the BCA and AS 1428.1 are complied with.
The proposal will reduce the property values of the surrounding developments.	Fluctuation in property values is not a valid consideration under the Act.
Construction impacts	
Adverse impacts associated with construction, including truck movements, dust, noise and etc.	Specific conditions of consent will be recommended to ensure appropriate construction management measures are implemented during works on the site, in order to minimise traffic and amenity impacts on the surrounding residents.
Soil stabilisation and water table associated with excavation	These issues will be addressed via the imposition of appropriate conditions of consent. The above conditions will require appropriate soil retention and site management measures to be implemented

	during works on the site. Council's Development Engineers have assessed the proposal and raised no objections to the basement floor levels subject to conditions.

5.2 Support

Not applicable.

6. TECHNICAL OFFICERS COMMENTS

The application has been referred to Council's Design Review Panel, Building Surveyor, Development Engineers, Landscape Architect, Heritage Planner and Environmental Health Officer for comments. The comments provided are extracted as follows:

Design Review Panel comments

1. Relationship to the Context of the Proposal

450 Anzac Parade

It is noted that the lower levels (2 and 3) of the tower at 450 are commercial suites and not residences. The sun diagrams indicate that for levels 4, 5, 6 and 7 there is a satisfactory amount of sunlight for each unit.

Anzac Parade

The project, as it faces Anzac Parade, follows the DCP requirements of a street wall for the first three levels and then a 5 metre set back to the apartments above. It is a typical podium type, handled well by the architects. The deep awning with tall glass restaurant wall directly above and over the footpath assists in the modelling. Anzac Parade is a wide street and the importance of the view from passing traffic has been well understood by the architects.

The anomaly is that the third level within the forward 5 metre zone is residential. The noise of Anzac Parade and proximity to traffic will make these apartments difficult to open up to the street and will most likely be air conditioned at all times. In this context it may be better to have a commercial use or to add this to the restaurant floor space situated below, or other environmentally engineered solution to the apartment design.

Middle Lane

The section provided in the extra information provided to council indicates the difficulty associated with the narrowness of the site depth off middle lane.

The rear of the site is residential in character. The Panel is concerned that the club with its open smoking balcony will present noise issues for the adjoining neighbours. Alternate positions for the balcony should be considered (possibly over the restaurant).

The residential strip on Middle Lane is regarded as suitable for this location, however, the narrow depth of the site presents challenges in terms of light, useful landscape areas and access.

The Panel considers that alternate unit types and mixes be investigated.

It may be better for example, to look at a more commercial use such as professional office or shop on the lowest level rather than a single apartment on the street. Two-level, three-bed apartments where students could share accommodation should also be considered to improve the mix of apartments in

the development. The lack of any deep soil area for growing substantial trees to raise the amenity of the residential environment is a concern.

2. The Scale of the Proposal

The scale of the project, within the envelopes anticipated in the DCP, is generally satisfactory. The developed architectural language allows for a variety of scales from fine grain like the awning and blades above to elements of a more grand scale like the sandstone panels. The use of 'blade walls' is not so successful both in terms of scale and legibility. The sandstone on Anzac Parade looks a little heroic and paper thin at the very top and may be better terminating earlier.

The blades again on Middle Lane serve to increase scale. This is not desirable in this lower scale area. The array of balconies facing north helps confirm the scale as associated with residential development which is typical in this context.

The upper levels could more positively address the Anzac Parade frontage, rather than aiming everything at the side / northern boundary.

3. The Built Form of the Proposal

The form is anticipated by and large in the council requirements and the scheme has built to the envelope allowable, however the planning configuration for this development borrows heavily on the amenity afforded by the neighbouring properties to the north. This may pose a problem for the occupants if these properties are developed along the same lines. It is The Panels' opinion that the architect should investigate the implications of the probable development of a similar scale to the proposal and determine whether the proposal needs to be adjusted so as to not hinder the potential of these sites to the north. Other planning strategies to the residential component may need to be investigated.

The apartment design onto Middle Lane (such as units 201 and 203) need to be improved and the built form modified so that they address the street rather than look into a wall.

On the western end apartments such as 2.11 should be re-planned so as to avoid the long, thin corridor that has very little natural light.

The entry stairs to the apartments on Middle Lane could be more generous in width.

It would be preferable if the corridor was open at both ends which is achievable by reducing the kitchen area to unit layouts in the position of 3.10.

The blades as mentioned previously may require more consideration.

4. The Proposed Density

Although the density is considered satisfactory (and complies with council requirements according to the SPD Statement of Environmental Effects submitted as part of the DA submission), the Panel has concerns regarding is the reliance on the benefit that each of the residential balconies facing north over sites that could be developed to the same height as the subject site. There may be a conflict between allowable density and SEPP 65 amenity requirements.

5. Resource and Energy Use and Water Efficiency

The planning report mentions the harvesting of water for irrigation. It may also be possible to use harvested water more widely in the project.

Fans should be used widely in all units and given the potential for cross ventilation no air-conditioning should be required in the residential component of the development.

In order to secure long term cross ventilation benefit (particularly summer sea breezes) a greater set back from the northern boundary, or as previously described, a different planning configuration may be desirable.

The architects and consultants should investigate opportunities for jointly satisfying or exceeding the separate BASIX and Section J of the BCA requirements.

Internal spaces on the top floors should have ventilating skylights where possible. The roofs on the apartments to Middle Lane could be more effective in capturing winter sun, introducing natural light into the interiors.

Window and door operation should be indicated on the drawings. Their operation should be designed so that cross ventilation can be achieved at all times without compromising security for the occupants.

6. The Proposed Landscape

The site is fully excavated for car parking and there is building over the whole car park. A preliminary landscape plan shows only two planter box areas on the north and south side of the apartment tower. More work in the landscape should be considered.

There are likely to be up to 120 people living in this building and a major recreation facility that allows for communal interaction is encouraged by The Panel. Deep shade from trees is also necessary to reduce a 'heat island effect'. As the vast majority of areas surrounding the units are hard paved there will be considerable heat build up in summer effecting the internal temperatures of the dwellings.

- each unit should anticipate the possibility of pot plants with a tap connected to harvested roof water and the landscape architect should indicate and influence glazing to the balconies to anticipate plants
- The roof garden could become a major recreational space if with greater detail shown for the DA:
 - 1) NE breezes must be modulated
 - 2) areas should be shielded from the Southerly winds
 - 3) deep soil planter boxes that can take trees that will shade should be numerous
 - 4) BBQ facilities and sinks
 - 5) fixed tables and chairs
 - 6) Attractive warm night lighting incorporated
 - 7) shading and weather protection should be provided

A small swimming pool in one these two roof areas may be possible. The Panel however understands that this has ongoing maintenance issues.

If the balconies are pushed back from the north as suggested above, a more profound idea of tree and under storey planting in the set back zone maybe possible. This will give a clue to future development to the north and may establish the nature of the slot space between two tall residential towers.

Trees may also be planted along Middle Lane. The power may need to be taken underground to allow the trees to develop. The addition of trees will assist in

improving amenity for these lower scale units/townhouses, and making the lane more like a little street and less like a service zone. In this regard any opportunity to decrease the width and impact of servicing and car access on the lane frontage should be investigated.

7. The Amenity of the Proposal for its Users

The amenity of the units in the tower is satisfactory, except for the ones that have limited outlook. The units overlooking Anzac Parade need further consideration as to their appropriateness. More work to the small units on Middle Lane needs to happen given the inherent difficulties of these sites. It is the thinness of the site makes these difficult to plan. If the site to the west of the low scale units was developed, what considerations has the current design done to anticipate this future possibility?

8. The Safety and Security Characteristics of the Proposal

Satisfactory

9. Social issues

A more activated Middle Lane, with commercial lower units rather than fences would be preferable, particularly at the street corner. The proposed complexity of uses and the retention of the club is supported by The Panel

10. The Aesthetics of the Proposal

In design terms this is an interesting and a substantial improvement on most other projects in the vicinity. The architects have developed a playful and richly textured language. The aesthetics are 'modern' with 1950's overtones. More landscape will improve the appearance of the project. The eastern elevation of the main tower and commercial development below do require more development as there is little reason why this should be treated as a side elevation. The western elevation of the Middle Lane townhouses need to be further developed.

Summary and Recommendations

The Panel generally supports the proposal however there is far too little landscape for a high density residential development. Anzac Parade is a harsh, noisy, hot environment and further work has to be done to ameliorate these problems to achieve high amenity.

Further the project relies heavily on the northern aspect for amenity and this could be seriously reduced if the neighbouring properties were to be redeveloped.

However the subsequent sections submitted showed how, with generous landscape on top of the podium and between the two sites, that the space between apartments can enjoy good amenity.

The Panel would like to have seen this project at a Pre DA level where issues of context and future development could have been discussed and a more convincing solution may have eventuated.

Comments:

The Design Review Panel supports the density, layout and overall design of the proposal subject to a number of refinements. The recommendations contained in the panel's comments have generally been incorporated into Council's letter dated 15 October 2007, which requested the submission of amended plans and additional information. The amended plans have satisfactorily addressed the key issues raised by the panel and Council's officers.

Building Surveyor's comments

BCA Building Classification

Class - 2 (Residential Units)

Class - 6 (Retail/Shops)

Class - 7a (Carpark)

Class - 9b (Place of Public Entertainment)

Background

The existing building on site is a post war purpose built brick club bounded by commercial and residential buildings.

Key Issues

Building Code of Australia (BCA):

Full details of compliance with BCA and fire safety provisions are not included in the DA documentation and therefore further detailed information would need to be incorporated in the documentation for a construction certificate.

Site management:

Standard conditions are proposed to be included in the consent to address construction site management issues, such as the location of stock piled material or the storage and disposal of excavated materials, sediment and erosion control, public safety and perimeter safety fencing.

Access for people with a disability:

The proposal appears to demonstrate compliance with the BCA requirements and Disability Discrimination Act (DDA) objectives, in relation to access and facilities for people with a disability.

Access for people with a disability is required to be provided to the basement car park and the ground floor shops and 1st floor club as well as a number of sole occupancy units and, sanitary facilities for people with a disability are also required to be provided to the development, in accordance with the provisions of the BCA.

Standard conditions should be included to address and confirm these requirements and ensure compliance with the BCA and AS1428.

The applicant or other person having the benefit of the consent is also advised to fulfil their obligations under the DDA.

Comments:

The recommended conditions will be incorporated into any draft consent for the development.

Development Engineer's comments**Road Widening Comments**

Conditions have been included within this report requiring dedication of land to facilitate road widening along the Middle Lane site frontage. The applicant must dedicate 1.2 metres of land along the Middle Lane site frontage except for the area in front of units G.01 and G.02. The area in front of units G.01 and G.02 must dedicate 0.6 metres of land for road widening.

In the areas where 1.2 metres of land are dedicated for road widening the kerb alignment will be positioned 600 mm to the west of the current kerb alignment.

In the area fronting units G.01 and G.02 the kerb alignment will remain as per the current alignment.

Drainage Comments

Onsite stormwater detention is required for this application.

Standard drainage conditions have been included within this report.

Service Authority Comments

Standard service authority conditions have been included within this report. The value of works are significantly above \$2 million and conditions requiring the applicant to meet costs for undergrounding of power in the vicinity of the works have been included in this report.

Civil Works / Parking Provision Comments

Standard civil works conditions have been included within this report.

The level of parking provided has been discussed at a number of pre-determination meetings and the final parking layout/provision is supportable. The carpark layout, entry/exit arrangements and parking spaces must comply with the relevant sections of AS 2890.1 – 2004.

Ground Water Comments

Detailed ground water conditions have been included within this report. If any temporary dewatering of the site is required to facilitate construction of any part of the lower basement carpark a licence under Part V of the Water Act 1912 will be required. The licence must be obtained from the NSW Department of Water and Energy prior to installation of the works.

Comments:

The suggested conditions will be incorporated into the recommendation section of this report.

Landscape comments

Despite not being shown on any of the submitted plans, the two *Syagrus romanzoffianum* (Cocos Palms) and one *Morus nigra* (Mulberry Tree) growing within small raised planter beds hard up against the front (western) side of the existing building are all insignificant specimens, too small to be covered by the Tree Preservation Order (TPO), and therefore, can be removed in order to accommodate the proposed works as shown.

Immediately to the west, within Council's Anzac Parade footpath, there are two *Platanus x hybrida* (London Plane Trees), one each towards the northern and southern site boundaries, of approximately 6 metres in height, which given their location on public property, are covered by the provisions of Council's Tree Preservation Order, and appear in good health and condition.

Their canopies have been able to develop almost unaltered over the past 10-15 years due to a complete lack of interference from awnings and the resulting need for constant directional pruning, which has created in an unsightly appearance for several other trees in this vicinity.

Council's Street Tree Masterplan nominates Plane Trees as the preferred species in such situations, as is evidenced by their presence on both sides of Anzac Parade throughout the Kingsford and Kensington suburbs, and given their resilience and grand scale upon maturity, retention will allow them to perform

their intended function of creating a grand boulevard, which is consistent with Council's long term vision and planning objectives for this area.

Despite this, both trees are shown as being removed on the plans submitted, with replacements proposed to be installed only a metre away from their existing locations, with two separate 'cut-outs' or recesses measuring 2m x 1.5m made in the 3 metre wide awning in an attempt to accommodate future growth requirements.

However, this is not considered an ideal outcome given the disjointed appearance these cut outs create, with Council's preference being for a more constant built edge through either no awnings at all adjacent to street trees; or, an awning which is reduced in width, but provided at a consistent setback across the full width of the site.

Further, removal and replacement of these trees is not supported by Council given the difficulties and length of time it takes to establish successful street tree plantings in commercial centres due to competing structures, vandalism, neglect and pollution, particularly as there also appears ample room to accommodate an alternative design solution which would facilitate their retention, while still allowing the provision of an awning/balcony as has been proposed.

While this may impact the area available for the proposed outdoor dining area/balcony, this approach is still favoured, and is seen as a reasonable request in the context of this application as it offers a more sympathetic approach to the streetscape, and would, importantly, also assist with visual and acoustic screening between this outdoor area and the busy roadway, which is a positive for the amenity of patrons.

As this site is located within the Kingsford Commercial Centre, conditions in this report require that the applicant (in consultation with Council's Design staff), develop a plan for the refurbishment of this public area in accordance with Council's Urban Design Guidelines, including paving, retention of the existing street trees as described above, as well as incorporation of other existing elements such as the two seating benches and one rubbish bin.

Beyond the northeast corner of the site, within a triangular shaped Council owned garden bed at the intersection of Middle Street and Middle Lane, there is a single *Platanus x hybrida* (London Plane Tree) of around 8 metres in height which is covered by the TPO, and appears in good health and condition.

While sited a reasonable distance from the proposed works, it may still sustain damage from machinery accessing the site during the course of the works, as well as from the stockpiling of materials; and therefore, minimal, but relevant protection measures have been included in this report to ensure its preservation in the streetscape.

There are a total of seven *Robinia pseudoacacia* 'Frisia' (False Acacia's) at the rear of the site, around the perimeter of the existing carpark, being a row of three along the western edge of around 4-6 metres in height, and another row of four, of between 2-6 metres in height, along the eastern side, near the southeast corner of the site, fronting Middle Lane.

While being the only vegetation in this area, they are not deemed worthy of retention given their insignificance, and the impact this would have on the remainder of the proposal, with consent therefore granted for their removal, on

the basis that a replacement planting scheme which is appropriate to the area available is provided along this frontage.

Comments:

The Landscape Section's comments in relation to the retention of existing mature street trees are supported. The suggested conditions will be incorporated into the recommendation section of this report.

Heritage Planner's comments

The site, formerly occupied by a cinema, is occupied by the Castellorizian Club, a bulky white building. The site is in the vicinity of O'Dea's Corner, listed as a heritage item under Randwick LEP 1998. The Heritage Study Sheet for the building notes that it is dated 1912, and describes it as a *"corner commercial building. Two storeys with parapet. Features recessed balconies on Anzac Parade frontage. typical Edwardian style. Decoration includes imitation stone, smooth rendered and roughcast section, and some decorative tilework."*

The application proposes a 7 storey building comprising a 3 storey podium with 4 levels above, set back from site boundaries. Development applications for an 8 storey building on the site (DA/141/1998/DA/200/1998) were approved in November 1998. One development consisted of a 4 storey podium with 4 levels above, set back from site boundaries, while the other retained the existing Castellorizian Club building with 4 residential levels above.

The application has been accompanied by a Statement of Environmental Effects which notes that the subject site is in the vicinity of a heritage item. The SEE notes that the height and design of the podium are consistent with the heritage item, with a vertical emphasis to relate to traditional shopfronts, and that materials and finishes are contemporary but sympathetic to the heritage item.

The existing club building comprises a highly articulated façade of one, two and three storey scale comprising curved elements some at the street edge and some set further back.

The streetscape of Anzac Parade in the vicinity of the subject site comprises one, two and three storey buildings built to the street alignment. A number of newer buildings break the street wall by increasing the set back from the street alignment.

There were a number of inconsistencies in the drawings submitted with the application, including discrepancies between plans, sections, elevations and perspectives. Amended drawings have now been submitted generally resolving these inconsistencies, although it is noted that the 0.5m deep blades which enclose the cantilevered first floor balcony are not indicated on the plan.

In relation to the design of the podium, it is considered that the proposed enclosed cantilevered balcony would detract from the streetscape importance of the O'Dea's Corner which partly derives from its prominent corner location and recessed balconies. It is considered that the proposed cantilevered balcony will adversely impact on the setting of the heritage item and on views to the heritage item from the south along Anzac Parade. There are significant concerns that any proposed extensive enclosed cantilevered balcony would break the traditional street wall along Anzac Parade, which should be reinforced, rather than further eroded by new development. The enclosed cantilevered balcony would set a poor precedent for further projecting balconies in the Kingsford town centre, and

careful planning consideration should be given to whether this is a desired streetscape direction for the area.

Council's Development Control Plan for Footpath Dining and Trading notes that the use of airspace above footpaths to provide first floor dining is generally not favoured by Council. Although proposals for new first floor balcony awnings may be considered subject to a number of criteria, it is considered that the proposed structure does not satisfy the requirement that the design complements existing awnings to surrounding properties. Surrounding buildings generally feature traditional 300mm deep awnings, while the proposed structure is 5m high and does not fall within the definition of an awning. In addition, the DCP includes a requirement that additional awnings may not be attached to existing fixed awnings. The proposed blades are additional to the awning itself and define a roof and walls to the proposed balcony area.

In relation to the design of the tower, it is noted that the design of the Anzac Parade elevation comprises two halves of differing materials and fenestration patterns. There are concerns that the proposed elevation treatment will give the tower a vertical emphasis which will exaggerate the scale of the building, and will draw attention to this section of the building.

In relation to the design of the Middle Street buildings there were concerns that no sections had been provided to indicate the relationship between the new development to the laneway and the O'Dea's Corner building. Sections have now been submitted which indicate the extent of development potential to the rear of the O'Dea's Corner site. Due to the minimal setback of the proposal from the right of way (zero for ground and first floor decks) and the limited width of the right-of-way (3.050m), privacy considerations may limit the development potential at the rear of the O'Dea's corner building.

Comments:

The Heritage Planner's assessment has been considered and is addressed as follows:

- The applicant has submitted amended drawings ensuring consistency of the design between plan and sectional views. The proposed glass screen walls to the western balcony on the Anzac Parade frontage have been deleted, in accordance with the Heritage Planner's recommendation.
- The balcony in question is substantially open in design and the original glass enclosing walls have been deleted. The balcony has a general width of 3m and is situated a maximum of 4.4m above the footpath level. The configuration and height of the balcony are consistent with the typical awning structures along Anzac Parade.
- The feature blade walls are considered to create a significant building bulk and detract from the Anzac Parade streetscape. A deferred commencement condition is recommended to require deletion or substantial modification of the above component in order to minimise visual intrusion.
- The site is separated from the O' Dea's Corner by No. 436 Anzac Parade. Therefore, the proposal is not considered to result in significant visual impact on the heritage item in the vicinity of the site, subject to condition
- The Footpath and Outdoor Dining DCP does not prohibit accessible awning structures in business zones. The relevant provisions of the DCP

have been addressed in this report and the proposal is considered satisfactory, subject to condition.

- The design of the western (Anzac Parade) façade of the main building above podium levels has been amended to include additional window openings and associated balustrades and louvre screen elements. The façade is considered to be appropriately articulated, given the requirement to minimise summer heat gain from its western orientation.
- Anzac Parade is currently experiencing incremental redevelopment where newer high-rise buildings are replacing older style commercial premises. The subject proposal presents a contemporary design scheme incorporating modern construction materials. The development includes a podium that relates to the height and scale of existing older style buildings in the area. The overall scale and form of the development are considered satisfactory from an urban design perspective.
- The Middle Lane walk-up flats components are not visible from Anzac Parade and are not considered to result in significant impacts on the key heritage elements of the O'Dea's Corner.
- The design of the building is generally supported by the Randwick / Waverly Councils Design Review Panel.
- The Castellorizian Club has been an established cultural facility for the Greek population in the Randwick local government area. It has close associations with the local Greek community and its migrant history, and is a popular venue for religious and cultural related functions. In this respect, the existing club premises is considered to carry social and cultural significance. The continuation of the club use in the new development will maintain the significance of the site whilst providing new development opportunities. A specific condition is recommended to require appropriate photographic and historical display materials to be provided within the new club premises, in order to demonstrate its significance as an ethnic cultural venue.

Environmental Health Officer's comments

Specific conditions have been recommended by the Environmental Health Officer. These conditions will be incorporated in the recommendation.

7. MASTER PLANNING REQUIREMENTS

Clause 40A(1) of RLEP 1998 provides that consent may be granted to a development application made in respect of a site consisting of more than 4,000m² only if: (a) a master plan has been adopted, and (b) the consent authority is satisfied that the development is not inconsistent with the provisions of that master plan. The site has a land area of 2,227m² and a master plan is not required.

8. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The application has been assessed in accordance with the provisions of the following planning documents:

- Environmental Planning and Assessment Act 1979, as amended
- Environmental Planning and Assessment Regulation 2000, as amended

- State Environmental Planning Policy No. 1 – Development Standards (SEPP 1)
- State Environmental Planning Policy No. 11 – Traffic Generating Developments (SEPP 11)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP: BASIX)
- Randwick Local Environmental Plan 1998
- Development Control Plan No. 16 – Kingsford Commercial Centre
- Development Control Plan – Parking
- Development Control Plan – Outdoor Advertising
- Development Control Plan – Footpath Dining and Trading
- Section 94A Development Contributions Plan

8.1 Environmental Planning Instruments

SEPP 1 Development Standards

The proposal has a height of 27.5m as measured from existing ground level to the topmost point of the building, being the shelter structure on the rooftop terrace. The building has a height of 24.3m excluding lift overrun and the rooftop shelters.

RLEP 1998 provides the following definition for building height:

“Building height means the vertical distance from the highest point on the building to the ground level and includes ancillary services, installations and works (including works to conceal and integrate services) unless the Council is satisfied that they will not adversely affect the amenity of adjoining or nearby land.”

According to the LEP, the proposal will result in a breach of the required building height of 3.5m (being 27.5m minus 24m).

The applicant has submitted an objection under State Environmental Planning Policy No. 1 – Development Standards, and has argued that strict compliance with Clause 33(5) of RLEP 1998 is unreasonable and unnecessary. In assessing the applicant's SEPP 1 objection, the following matters are addressed:

- ☐ **Whether or not the planning control is a development standard**
The building height control is a numerical development standard contained in RLEP 1998.
- ☐ **The underlying object or purpose of the standard**
The stated purpose of the standard, as outlined in RLEP 1998 is:

“To set upper limits for the height of buildings in residential and business zones that are consistent with the redevelopment potential of land in those zones given other development restrictions, such as floor space and landscaping, and have regard for the amenity of surrounding areas.”
- ☐ **Consistency of the development with the aims of SEPP 1, the local planning objectives for the locality and objects of the Environmental Planning and Assessment Act 1979, as amended**
The aims and objectives of SEPP 1 are to:

"Provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979."

The objects of the Act referred to in the SEPP are:

"to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.
- (ii) The promotion and coordination of the orderly and economic use and development of land."

The variation from the height control is not inconsistent with the aims of the SEPP and the objects of the Act under Section 5(a)(i) and (ii), in that the resultant development will promote the orderly and economic use and development of the land. The proposal is consistent with the objectives of Zone No. 3A as the development will reinforce the viability of the Kingsford Commercial Centre by introducing retail, entertainment and residential uses in close proximity to public transport services.

☐ **Whether compliance with the development standard is unreasonable or unnecessary in the circumstances of the case**

It is considered that strict compliance with the building height standard is unreasonable or unnecessary for the following reasons:

- The non-compliance with the building height control is mainly attributed to the roof-top shelters, staircase roofing and lift overrun. The above elements are setback from all property boundaries, occupy less than 40% of the floor area of the rooftop level, and represent minor structures of limited building bulk.
- The proposed building envelope is not inconsistent with the scale and form of other recent redevelopment in the area, including No. 450-458 Anzac Parade.
- The design scheme has incorporated a podium level fronting Anzac Parade with the upper storeys setback further from the street boundary. The proposed built form is considered to have minimised adverse visual impacts on the public domain.
- The non-compliance with the development standard is not considered to result in detrimental amenity impacts on the surrounding properties in terms of solar access and privacy.

Having regard to the above, it is considered that strict compliance with the development standard is unreasonable and unnecessary as the proposal satisfies the purpose of Clause 33(5).

☐ **Whether the objection is well founded**

The SEPP 1 objection submitted by the applicant has demonstrated that there will be no material environmental impacts resulting from the non-compliance of the height limit, in terms of view sharing, privacy, solar access and streetscape character. The objection has addressed the consistency of the proposed development with the underlying and stated purpose of the

development standard. Therefore, the objection is considered to be well founded.

SEPP 11 Traffic Generating Development

The aims and objectives of this SEPP are to ensure that the Traffic Authority is made aware of and is given an opportunity to make representations of development referred to in the policy.

The proposed development is identified in Schedule 2 of the SEPP and has direct pedestrian access from an arterial road. Pursuant to Clause 7(4) of the SEPP, the application has been referred to the Roads and Traffic Authority for comments.

The proposal also shows a balcony encroaching onto the air space of the Anzac Parade road reserve, which will require the concurrence of the RTA under Section 138 of the Roads Act 1993.

The RTA has reviewed the development proposal and granted concurrence under Section 138 of the Roads Act, subject to specific conditions. These conditions will be incorporated in the recommendation section of this report.

The RTA has provided advisory comments to Council in relation to stormwater discharge into the RTA drainage system and traffic noise intrusion into the residential apartments. In this regard, appropriate conditions will be incorporated to ensure appropriate drainage design and consistency with the recommendations contained in the acoustic report submitted by the applicant.

SEPP 55 Remediation of Land

SEPP No. 55 is applicable to the subject site. The policy aims to promote the remediation of contaminated land for the purposes of reducing risk of harm to human health or any other aspect of the environment.

The applicant has submitted a Preliminary Environmental Site Assessment report, dated October 2007, prepared by Aargus Australia Pty. Ltd. The above report is requested by Council in order to determine the potential for on site contamination due to previous uses of the site and the surrounding areas. The report is to provide a preliminary assessment of any site contamination and, where required, a basis for detailed investigation.

Site inspections and historical record search have been undertaken by the consultants. Based on the information collected, the site is considered suitable for the proposed development, subject to compliance with specific recommendations of the consultants. In this respect, appropriate conditions will be recommended to ensure the proposed works will not detrimentally affect the surrounding environment. No detailed contamination and remediation report is required in this instance.

SEPP 64 Advertising and Signage

Clause 6(1) of SEPP 64 provides that the policy applies to all signage proposals. Clause 8 further requires Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the policy and to assess the proposal against the assessment criteria of Schedule 1. However, Part 3 "Advertisements" of the policy does not apply to the subject proposal as it does not contain any advertisements components.

The objectives of the plan aim to ensure that the proposed development is compatible with the desired amenity and visual character of the locality, provides

effective communication and is of high quality having regards to both design and finishes. In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment is provided:

1 Character of the area

Control	Comments	Consistency with Control
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The subject site is situated within the Kingsford Commercial Centre locality, which is intended to incorporate a range of retail, commercial and apartment style residential uses. The proposal seeks approval of one (1) business identification sign for the proposed club premises. The sign will be projected approximately 0.6m beyond the front façade of the building with a dimension of 1.2m (W) x 7.0m (L). The sign will be internally illuminated and display "Cazzie" letterings. The proposed signage is not considered to be consistent with the desired character of the area based on the following reasons: ☐ The Randwick City Plan has designated Anzac Parade as a future grand boulevard with significantly improved pedestrian environment while functioning as an arterial road (page 31-32). ☐ The proposed projecting sign aims to draw maximum attention from drivers and is considered to reinforce the highway character of Anzac Parade. The size of the sign is not considered to be within a human scale and is not compatible with the boulevard character envisioned in the City Plan. ☐ The Outdoor Advertising DCP does not permit projecting wall signs in business zones. The proposed projecting wall sign is not considered to be a desirable signage form in the area.	No

	☐ At present, the surrounding developments do not incorporate any substantial projecting wall or fin signs, with the exception of smaller scale projecting signs, which have been installed for a considerable period. Refer to Photos 5 to 8 below. ☐ The proposed projecting sign, having a height of 7m, is of an excessive scale and is unprecedented in the surrounding areas. The scale and bulk of the sign are not compatible with the adjoining developments, especially the heritage listed buildings (the O'Dea's Corner) to the north of the site. ☐	
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposed signage is for business identification purposes. At present, the surrounding developments do not incorporate any substantial projecting wall or fin signs, with the exception of smaller scale projecting signs, which have been installed for a considerable period. The proposal is not considered to be consistent with the prevailing forms of advertising in the locality.	No



Photo 5 Developments on the western side of Anzac Parade opposite to the site. A number of small-scale projecting wall signs have been installed on the commercial buildings. The above signs appear to have been installed for a long time and may constitute unauthorised structures.



Photo 6 The subject site and the immediate adjoining developments to the north and south. There are no other projecting wall signs or fin signs with the exception of the existing projecting sign on the Castellorizian Club building.



Photo 7 Developments on the eastern side of Anzac Parade, to the north of the intersection



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frp.doc projecting wall signs have been installed on the
ITEM 8.4 building. The above signs have a height of
less than 5m.

Photo 8 The “O’Dea’s Corner” heritage item to the north of the site. No projecting wall signs have been installed on the heritage listed row buildings.

2 Special areas

Control	Comments	Consistency with Control
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas.	The locality contains a mixture of retail, commercial and residential uses. The “O’Dea’s Corner” at No. 424-432 Anzac Parade is identified as a heritage item under RLEP 1998. The above item is separated from the site by No. 436 Anzac Parade. The proposed sign is separated from the nearest property boundary of the heritage item by approximately 10.5m. However, the sign projects beyond the street façade of the building and has a height of 7m. Additionally, the sign extends above the parapet levels of the O’Dea’s Corner buildings, and is highly conspicuous when viewed from the street. Accordingly, this element of the proposal is not considered to be sympathetic to the heritage item in the vicinity of the site. The sign is internally illuminated and is in close proximity to Unit 2.11 of the building. The sign is located approximately 1m from the northern property boundary and is considered to have a negative bearing on the amenity of any future redevelopment of No. 436 Anzac Parade. The proposal is considered to result in adverse light spill impacts on the nearby residential uses.	No

3 Views and vistas

Control	Comments	Consistency with Control
Does the proposal obscure or compromise important views?	There are no important views that will be obstructed by the proposed signage.	Yes
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage extends above the parapet levels of the podium of the subject building as well as the O’Dea’s Corner heritage item to the north of the site. The proposed signage has a substantial dimension and is considered to dominate the streetscape.	No
Does the proposal respect	At present, there are no signage	Yes

Control	Comments	Consistency with Control
the viewing rights of other advertisers?	structures located immediately adjacent to the proposed projecting sign. Therefore, the proposal is not considered to affect viewing rights of other advertisers in the vicinity.	

4 Streetscape, setting or landscape

Control	Comments	Consistency with Control
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Refer to discussion in point 1 above.	No
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	Refer to discussion in point 1 above.	No
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	At present, the existing developments in the Kingsford Commercial Centre incorporate a range of business identification signs that aim at maximising exposure to drivers and pedestrians. The proposed projecting sign, having a height of 7m, is of an excessive scale and is unprecedented in the surrounding areas. The signage dimension overwhelms other existing signs in the locality and contributes to additional visual clutter in the area.	No
Does the proposal screen unsightliness?	There is no unsightliness in the proposed building that requires screening.	N/A
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage extends above the parapet levels of the podium of the subject building as well as the O'Dea's Corner heritage item to the north of the site. The sign will generally protrude above the canopy of mature street trees in the area. The proposed signage has a substantial dimension and is considered to dominate the streetscape.	No

5 Site and building

Control	Comments	Consistency with Control
Is the proposal compatible with the scale,	The proposed signage is integrated with the architectural design and detailing of	Yes

Control	Comments	Consistency with Control
proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	the building, and reinforces the character of the commercial components of the subject development.	
Does the proposal respect important features of the site or building, or both?	The design, dimension and location of the proposed signage are not considered to overwhelm the subject building per se.	Yes
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage is modern in form and design and is considered satisfactory for its intended purposes.	Yes

6 Associated devices and logos with advertisements and advertising structures

Control	Comments	Consistency with Control
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	No safety devices, platforms or external lighting devices are to be incorporated as part of the signage.	Yes

7 Illumination

Control	Comments	Consistency with Control
Would illumination result in unacceptable glare?	The proposed projected wall sign has a dimension of 1.2m (W) x 7.0m (H) and will be internally illuminated. The sign is located on the Anzac Parade frontage of the site, which is an arterial road. Given that the sign has a maximum dimension of less than 20m ² , no referral to or concurrence by the Roads and Traffic Authority is required. The sign extends beyond the ceiling of the first floor level and is located in close proximity to Unit 2.11 of the subject development. The sign is located approximately 1m from the northern boundary of the site and is considered to	No
Would illumination affect safety for pedestrians, vehicles or aircraft?		
Would illumination detract from the amenity of any residence or other form of accommodation?		
Can the intensity of the illumination be adjusted, if necessary?		

Is the illumination subject to a curfew?	have a negative bearing on the amenity of any future redevelopment of No. 436 Anzac Parade. Therefore, the proposed signage is considered to detract from the amenity of nearby residential uses. The sign projects above the airspace of Council's footpath and is oriented towards the carriageways of Anzac Parade. The sign is internally illuminated and is of a significant scale. The proposal is not considered to have minimised distraction of drivers or minimised potential safety impacts.	

8 Safety

Control	Comments	Consistency with Control
Would the proposal reduce the safety for any public road?	The sign projects above the airspace of Council's footpath and is oriented towards the carriageways of Anzac Parade. The sign is internally illuminated and is of a significant scale. The proposal is not considered to have minimised distraction of drivers or minimised potential safety impacts.	No
Would the proposal reduce the safety for pedestrians or bicyclists?	The proposed signage has a clearance of 3.2m above the footpath level and is considered satisfactory having regard to the safety of pedestrians or bicyclists.	Yes
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage will not obscure sightlines along the footpath and roadway. The development is not considered to reduce the safety of pedestrians.	Yes

Given the non-compliance of the signage design with the controls of the SEPP as outlined above, a specific condition is recommended to require deletion of the signage component from the current proposal.

SEPP 65 Design Quality of Residential Flat Development

Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the provisions of SEPP 65 – Design Quality of Residential Flat Development are considered as follows:

Principle 1: Context

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

Comment:

The Kingsford Commercial Centre is a highly urbanised precinct with a range of retail, commercial and apartment style residential developments, serviced by public transport. The proposal is consistent with the desired future character of Anzac Parade and the local centre envisaged in Council's planning controls. The proposed land uses, including business / retail premises, club, restaurant and apartment housing, are suited to the highly accessible locality. The building has been designed and sited to ensure compatibility with the height and scale of the surrounding developments.

Principle 2: Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

Comment:

- ☐ The proposal incorporates a podium fronting Anzac Parade, which relates to the height of the heritage listed buildings to the north, and the street wall of the building under construction to the south of the site. The upper levels are setback 5m from the front boundary, which will minimise their visual impacts and achieve a more appropriate scale to the street. The provision of accessible awning structures will reinforce the pedestrian scale at street level.
- ☐ The Middle Lane walk-up apartment block is 3 storeys in height, consistent with the prevailing height of other buildings in the immediate surroundings. The design achieves a visual transition from the higher built form fronting Anzac Parade to a lower domestic scale to the rear of the site.
- ☐ The proposal generally complies with the maximum height control specified in Council's planning control documents.
- ☐ The facades of the building have incorporated suitable modulations, incorporating contemporary design elements, which will reduce the visual bulk and scale of the structures as viewed from the public and private domain.

Principle 3: Built Form

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Comment:

- ☐ The design scheme includes a podium to both Anzac Parade and Middle Lane, with the upper levels setback from the boundaries of the site to minimise their visual impacts.
- ☐ The facades are articulated with balconies, blade walls, shading devices and finishing materials, which will improve their presentation to the streets.
- ☐ The building has been designed with nil setbacks to Anzac Parade at ground, first and second floor levels in order to create a strong definition to the street, commensurate with that expected in a business zone. The retail and restaurant levels have incorporated clear glazing, which will provide activation and casual surveillance of the street.

Principle 4: Density

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

Comment:

The locality is suited to higher density residential developments given its proximity to key activity nodes, such as the retail / commercial strip of Anzac Parade and the University of New South Wales campus, and public transport services. The floor space ratio of the proposed development achieves full compliance with Council's control. The provision of 66 new apartment units will introduce a residential population that ensure the vibrancy of the Kingsford Town Centre.

Principle 5: Resource, energy and water efficiency

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

Comment:

- ☐ The layout of all apartment units allows access to outdoor balconies or terraces from the living areas.
- ☐ Each unit is provided with generous window openings to maximise natural lighting and ventilation. Ventilated skylights are installed for apartments on the uppermost levels of the development. The design has reduced glazing on the western elevation to minimise summer heat gain.
- ☐ The circulation corridor on each level is opened on either end and will function as a breeze way. Light well / ventilation shafts penetrating the floor plates between levels 2 to 6 will provide cross-ventilation to the residential units.

Principle 6: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.

Comment:

- ☐ The proposal includes two (2) rooftop gardens of 110m² and 124m² in area, with fixed planter boxes to support shrub species and barbeque facilities for use by the residents.
- ☐ A communal courtyard is located in the southern portion of the building on level 2, which has an area of 129.7m². Planter beds with 800mm soil depth will be provided to support species reaching a maximum mature height of 5m to 6m (including *Bambusa gracilis* and *Chrysalidocarpus lutescens*). The above courtyard, in conjunction with that in the adjoining development at No. 450-

458 Anzac Parade, will provide a maximum 10.7m separation between buildings and will maximise privacy and solar access in a highly urbanised context.

- A 3m wide planter bed is provided along the northern setback area with maximum soil depth of 2m, which will support species with up to 5m mature height (*Tristaniopsis laurina*). The above planting area will improve amenity of the subject apartment units and future residential developments on the adjoining sites to the north.
- The terrace areas to the ground floor apartments on Middle Lane will accommodate shrub and tree species with up to 5m mature height (including *Bambusa gracilis* and *Liriope muscari*), which will contribute to the privacy and amenity of the above units.

Principle 7: Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

Comment:

- ☐ The submitted Environmental Noise Impact Assessment, prepared by Acoustic Logic Consultancy, has recommended specific measures to minimise noise intrusion to apartment units, which front Anzac Parade or above the club premises. These measures will be imposed as a condition of consent.
- The layout, configuration and dimensions of the apartment units will maximise solar access to the living areas. The units are of an open plan design allowing flexibility for the placing of furniture and living functions.
- The Residential Flat Design Code recommends that primary balconies for all apartments to have a minimum depth of 2m. The following provides an assessment against the above guidelines:

Middle Lane walk-up apartments	Balcony depth
G/F units	Primary balcony 0.5m – 1.2m to 1.1m – 1.9m
1/F units	Primary balcony 2m
2/F units	Balcony 1m
Comments	That part of the site fronting Middle Lane and Middle Street has a width of 11.885m. Given the narrow configuration of the site and Council's requirement of a setback of 0.6m to 1.2m for laneway widening purposes, it is highly difficult to maintain balcony depths of 2m for all units, without impacting on the functionality of the internal floor space. Notwithstanding, the balcony sizes and depths will allow a certain level of outdoor living for occupants and function as a transition between the public and private

	domain.

Main building apartments	Balcony depth
2/F	North-facing apartments 2m West-facing (Anzac Parade) apartments 1.6m to 2.5m East-facing (Middle Lane) apartment 2.3m
3/F to 6/F	North-facing apartments 2m West-facing (Anzac Parade) apartments 1.1m
Comments	The majority of the apartments have balcony depths of 2m and substantially comply with the guidelines of the Code.

- The Residential Flat Design Code recommends that building depths to be within 10m to 18m, and that 60% of the residential units to be naturally cross ventilated. The proposed apartments have a depth of less than 18m. Ventilation shafts and windows have been incorporated in the design to enable all apartments to be naturally ventilated, with the exception of one (1) unit, being Unit 2.12. Therefore, the proposal complies with the guidelines of the Code.
- The Residential Flat Design Code provides the following recommendations in relation to solar access:

Guideline	Comments
Living rooms and private open spaces for at least 70% of the apartments to receive minimum 3 hours direct sunlight between 9am and 3pm in mid winter (2 hours may be acceptable in dense urban areas)	The application has included diagrams demonstrating the envelope of a probable development on land to the north of the site (Nos. 424 to 436 Anzac Parade) should redevelopment occur in the future. The anticipated building envelope is formulated based on general compliance with Council's built form controls. The diagrams show that: ☐ At 9am on 21 June, all north-facing units in the main building will receive direct sunlight, with the exception of Units 2.11 and 3.09. This high level of solar access is attributed to the 45-degree stepping requirements in respect of the eastern elevation of the future building under the Kingsford Commercial Centre DCP. ☐ At 12 noon on 21 June, all north-facing units in the main building will receive direct sunlight, with the

	exception of Units 2.08, 2.09, 2.10, 2.11, 3.07, 3.08 and 3.09. ☐ At 3pm on 21 June, shadows will be cast on the north façade of Units 2.03, 2.04, 2.05, 2.06, 2.07, 2.08, 2.09, 3.02, 3.03, 3.04, 3.05, 3.06, 3.07, 4.04, 4.05, 4.06, 4.07, 4.08, 5.03, 5.04, 5.05 and 5.06. ☐ The diagrams do not show the shadow impacts on the Middle Lane walk-up apartments. However, given the east-facing orientation of the block, the general 2- to 4-storey height of the buildings along Harbourne Road and the width of Middle Lane, the walk-up apartments are anticipated to receive a minimum of 3 hours direct sunlight in the morning period. ☐ Based on the above analysis, it is considered that more than 70% of the apartments will receive direct solar access for not less than 3 hours between 9am and 3pm on June 21.
Single aspect apartments limited to 10% of the number of units	Middle Lane walk-up apartments All of the 15 units have dual aspects
	Main building apartments With the exception of Unit 2.11, all of the apartments have dual aspects either to the streets, communal courtyards, or light well.

Principle 8: Safety and security

Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

Comment:

- The proposed balconies and windows will provide casual surveillance to Anzac Parade and Middle Lane.
- The entrance lobbies to the residential floors and club are clearly visible from the street. It is noted that the restaurant component will share the same lift system and entry lobby with the residential apartments. However, a swipe

card system will be incorporated to restrict access to the residential levels. The swipe card system will be required as a condition of consent.

- Security grills are proposed to restrict access to the residential parking spaces on the basement levels.
- The ground floor retail floor space will provide an active frontage to Anzac Parade.

Principle 9: Social dimensions

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

Comment:

As demonstrated in the table below, the majority of the apartments are one-bedroom or studio units. Given the location of the site, it is anticipated that the potential occupants will mainly be students, hospital staff or young couples. The proposed unit mix would satisfy the prevailing market demand for housing in the area and is considered acceptable in this instance.

Apartment type	Number
Studio	9
1-bedroom	51
2-bedroom	6

Principle 10: Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

Comment:

The overall form and detailing of the building, arrangement of open space areas and landscape design are appropriate and suitable for the site. The proposed architectural composition, fenestration treatment and external finishes of the building achieve a contemporary design response that enhances the streetscape character of Anzac Parade, Middle Lane and Middle Street.

SEPP (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the proposed development. The development application is accompanied by a BASIX Certificate. The requirements specified in the above certificate will be imposed by appropriate standard conditions prescribed by Clause 97A of the Environmental Planning and Assessment Regulation 2000.

Randwick Local Environmental Plan 1998

The site is identified as being within Zone No. 3A (General Business Zone) under Randwick Local Environmental Plan 1998. The subject proposal includes business premises, a club, a restaurant and multi-unit housing as defined in the LEP, which are permissible with development consent. The proposal is consistent with the zoning objectives in that:

- The development will reinforce the viability of the Kingsford Town Centre by introducing retail, entertainment and residential uses in close proximity to public transport services.
- The development will provide activation and casual surveillance of Anzac Parade and the surrounding public domain.
- The development will improve the streetscape character of Anzac Parade by introducing a suitably proportioned and articulated built form.

The following clauses of RLEP apply to the proposal:

Control	Proposal	Compliance
Clause 22 Services Adequate facilities for supply of water, disposal of sewage and drainage are required to support a proposed development	The provision of utility services will be required by appropriate conditions of consent.	Yes, subject to conditions
Clause 32 Floor space ratio 3:1 (or 6,681m ² GFA) for Zone No. 3A	2.68:1 or 5,961m ²	Yes
Clause 33 Building heights 24m for Zone No. 3A	24.3m excluding lift overrun and shelter structure on the rooftop terrace 27.5m to topmost point of the building, being the shelter structure on the rooftop terrace	No , refer to discussions under the "SEPP 1" section of this report
Clause 40 Excavation and filling of land	The proposal requires significant excavation to accommodate 2 basement levels and lift shaft structures. Specific conditions are recommended to ensure that suitable retaining walls and protection measures are provided during works on the site.	Yes, subject to condition
Clause 42B Contaminated land	The applicant has submitted a Preliminary Environmental Site Assessment report, dated October 2007, prepared by Aargus Australia Pty. Ltd. The above report is requested by Council in order to determine the potential for on site contamination due to previous uses of the site and the surrounding areas. The report is to provide a preliminary assessment of any site contamination and, where required, a basis for detailed investigation. Site inspections and historical record search have been undertaken by the consultants. Based on the information collected, the site is considered suitable for the proposed development, subject to	Yes, subject to conditions

	compliance with specific recommendations of the consultants. In this respect, appropriate conditions will be recommended to ensure the proposed works will not detrimentally affect the surrounding environment.	
Clause 46 Development in the vicinity of heritage items, heritage conservation areas and known or potential archaeological sites	The O'Dea's Corner at No. 424-432 Anzac Parade, which is classified as a heritage item under RLEP 1998, is located to the north of the site. The site is separated from the above item by No. 436 Anzac Parade. Specifically, the site is approximately 10.5m from the nearest boundary of the No. 432 Anzac Parade. The height and building envelope of the proposed podium to Anzac Parade are generally consistent with the built form characteristics of the heritage item. This design treatment will ensure appropriate streetscape scale and relationship are maintained. The proposed first floor balcony on the Anzac Parade frontage is unroofed and is substantially open in nature. A deferred commencement condition is recommended to require deletion or substantial amendment to the feature blade walls attached to the balcony, in order to minimise visual bulk and streetscape impact. The balcony does not present as an enclosed structure of excessive building bulk, and will not result in significant visual impacts on the curtilage of the heritage item, subject to the above condition.	Yes, subject to condition

8.2 Policy Controls

Development Control Plan No. 16– Kingsford Commercial Centre

The Kingsford Commercial Centre Development Control Plan, effective from 7 May 1996, is applicable to the subject proposal. The relevant provisions of the DCP are addressed as follows:

Control	Proposal	Compliance
Section 2 Building Design		
Site consolidation Minimum site area of 800m ² and minimum frontage of 18m are required to permit a maximum FSR of 3:1	The site has a land area of 2227m ² and Anzac Parade frontage of 32.835m.	Satisfactory
Commercial component Nil ground level front building line	Nil ground level setback to Anzac Parade is proposed.	Satisfactory
Retail / commercial floor space is provided along the length of the Anzac Parade frontage Ground floor retail / commercial floor space is to have a minimum depth of 10m	There are 3 retail tenancies proposed along the Anzac Parade frontage at ground level. Additionally, a restaurant is provided on the first floor level facing Anzac Parade. The above land use components occupy a depth of more than 10m.	Satisfactory
Side boundary setbacks A side boundary setback of 6m (for that part of a wall exceeding 12m in height) The 6m setback does not apply in the following circumstances: ☐ Where the development is adjacent to an existing building with substantial walls (that have no openings and/or windows) above 12m ☐ Where it can be demonstrated that due to existing site conditions, such as site width, that the application of the 6m side setbacks would be impractical ☐ Where the site has frontage to a side lane no setback above 12m will apply to the side lane or corner street	Northern side boundary The ground and first floor levels have nil setbacks to the northern side boundary. This is satisfactory as the adjoining development at No. 436 is built to the boundary with a solid party wall. The residential floors above are setback 6m from the boundary (as measured to the external wall of the balcony), with the exception of Unit 2.11, which is setback only 3.5m from the boundary for a distance of 9.3m. The non-compliance for Unit 2.11 is considered acceptable as the adjoining building at No. 436 is 2 storeys in height, and the level difference will result in no overlooking or privacy issues. The Middle Lane walk-up flats are generally built to the northern boundary, and is considered satisfactory given the corner location of the block. Southern side boundary The ground and first floor levels have nil setbacks to the southern boundary. This is satisfactory as the adjoining development at No. 450-458 is built to the boundary with a solid wall. The residential floors above are setback 4m to 6.7m from the side boundary. The non-compliant portions are	Satisfactory

	characterised by solid walls and will not result in any adverse privacy impacts. The southern setback area will accommodate an open terrace area consistent with the layout of the adjoining development at No. 450-458. The proposed setback is considered satisfactory.	
Building height plane A building height plane control applies to the site, which incorporates the following: ☐ Podium to Anzac Parade of up to 12m ☐ Front setback of 5m above the podium, to a maximum height of 24m ☐ Rear lane with nil setback for the first 8m, with the upper levels contained within a plane defined by a 45-degree angle above 8m	The proposal has the following characteristics: ☐ The podium to Anzac Parade has a height of 12.5m to 12.7m, as measured from the footpath level. The 0.5m to 0.7m breach is due to the requirement for flood protection, and is not considered to result in significant visual or amenity impacts. ☐ Front setback of 5m is provided for the levels above. ☐ A 0.6m to 1.2m setback to Middle Lane is provided to enable widening of the laneway, consistent with Council's request. ☐ The building is generally contained within the 45 degree envelope, with the exception of 4/F, 6/F and the rooftop shelter structures. The non-compliant elements are not considered to be visually obtrusive or of a significant bulk. The breach is not considered to result in significant additional shadow impacts on the surrounding properties and is acceptable.	Satisfactory
Building alignment ☐ All future development along Anzac Parade and Gardeners Road should maintain the continuity of the building façade and be built up to the street alignment for at least the lower floors to a maximum of 12m ☐ Setbacks of new developments from the street are to be avoided ☐ Buildings located on street corners are to be built up to both street frontages to address the corner ☐ Future development along Anzac	The proposed podium has nil setbacks to Anzac Parade. The Middle Lane walk-up flats are generally built to the northern boundary.	Satisfactory

Parade is to be built up to the major street boundary		
Building height A maximum height of 24m above natural ground level applies. This height restriction excludes chimneys, vents and service installations (such as lift towers, stairways and plant rooms)	The proposal has a maximum height of 24.3m, excluding stairs and lift overrun.	Satisfactory
Car park and traffic ☐ To be in accordance with the Parking DCP ☐ Driveways, internal road design, service requirements and site design shall be in accordance with the RTA Guide to Traffic Generating Developments, unless otherwise stated in the DCP ☐ The provision of on-site parking is to be provided either at ground level or as basement car parking ☐ Car parking for visitors / customers must be designed to be accessible for those users	☐ The development provides 122 parking spaces over two basement levels. ☐ Visitor and customer parking spaces are located on the upper basement level. A specific condition is recommended to require suitable sign-posting to clearly identify customer and visitor parking. ☐ Refer to the "DCP – Parking" section for details on compliance with Council's controls.	Satisfactory
Loading and unloading facilities Provision for satisfactory loading and unloading facilities is required for all developments in the business zone. If the development has access to a rear lane, the loading and unloading facilities should be provided from the lane.	The proposal has included a loading dock at ground level accessible from Middle Lane.	Satisfactory
Common and private open space A minimum of 10m ² of common and/or private open space per residential unit shall be provided, of which no more than 5m ² is to comprise private balconies	The proposal features the following: Communal open space 489.1m ² Private open space (balconies / terraces) 647.4m ² Average private or communal open space per apartment unit: 15.3m ² /unit, including 7.4m ² of communal open space The level of private and communal open space provision complies with the DCP control.	Satisfactory
Section 3 Urban Design		
General Redevelopment and infill to reinforce existing elements that contribute to the Kingsford Commercial Centre townscape	The proposal has incorporated a podium to Anzac Parade, respectful of the height of the O'Dea's Corner to the north and other older style buildings in the locality. The overall design and detailing of the building are consistent with the desired future character objectives of	Satisfactory

	the DCP.	
Awnings New development should incorporate a suspended / cantilevered awning to provide continuous pedestrian shelter along Anzac Parade Awnings should be setback 600mm from the kerb, between 3.5m and 4.5m above the footpath, with a width of at least 3m unless openings have been provided for street tree planting.	The proposal has incorporated an accessible awning of 3m in width, with the exception of recesses for accommodating future street tree planting. The awning is setback 600mm from the kerb and is less than 4.5m above the footpath level.	Satisfactory
Advertising Above-awning signage structure is permitted only if the sign will not intrude upon the streetscape, a contributing façade or obscure the feature of a heritage item.	Refer to discussion in the "SEPP 64" and "Outdoor Advertising DCP" sections of this report.	Satisfactory
Fenestration ☐ The fenestration pattern of new development above the awning line should adopt a vertical emphasis in its proportions ☐ The design of fenestration in new buildings should complement the established fenestration pattern, with windows as individuals or groups forming penetrations in the solid façade ☐ The use of mirrored or coloured glass is not generally considered appropriate	The proposal has incorporated windows, balconies, blade walls and other architectural features that provide appropriate modulation of the building facades. The proposal does not utilise any mirrored glass or other highly reflective materials.	Satisfactory
Architectural detailing, materials and finishes ☐ The colour of exterior works should be consistent with the colour palette contained in the DCP ☐ Building façades should be constructed of masonry, including brickwork, stonework, rendered blockwork and cement construction ☐ Large expanse of highly reflective material or glass curtain walling above the awning line are considered inappropriate ☐ New buildings that are adjacent to residential precincts at their rear boundary should avoid the use of reflective surfaces on that façade ☐ Sympathetic use of building materials can reduce the impact of modern shopfronts on the streetscape. The use of roller	☐ As shown on the submitted materials sample board, the proposed external finishing incorporates grey and other neutral colours, punctuated by bright red and orange as highlights to particular architectural features. The proposed colour scheme is considered satisfactory having regard to the mixed-use character of the locality. ☐ The design scheme has minimised the use of reflective materials or glazing. The anodised, powder-coated aluminium claddings generally have a matt finish. ☐ The rear elevation is generally solid in treatment and does not include reflective materials. ☐ The glazed shopfront	Satisfactory

shutter doors for shopfronts detracts from the visual and heritage amenity of the area and should not be permitted	treatment is compatible with the existing streetscape of the Kingsford Town Centre. Roller shutters are not proposed.	
The use of aluminium cladding as an architectural treatment is considered inappropriate for building facades having street frontage to Anzac Parade and Gardeners Road	The proposal incorporates powder-coated aluminium claddings on the Anzac Parade façade. Two shades of cladding are proposed to divide the front façade and provide visual interest and a distinctive architectural statement. The façade also comprises other decorative elements which enhances the streetscape presentation. The claddings are not reflective and will not result in significant amenity impacts on the surrounding developments.	Acceptable
New buildings should create visual interest by incorporating shaped parapets, cornice, pediment and window mouldings	The proposal has incorporated a range of design elements, such as balconies, blade walls, louvres, parapets and different finishing materials to provide a high degree of visual interest. The Anzac Parade elevation is suitably articulated and will enhance the existing streetscape.	Satisfactory
Roof form All building facades that address the street frontage at Anzac Parade / Gardeners Road should incorporate a shaped parapet having a minimum height of 1.5m above the ceiling level in alignment with adjoining facades for infill development.	The Anzac Parade façade incorporates an aluminium-clad parapet wall, which is set at an angle, and will provide visual interest to the street.	Satisfactory
Provision of through site pedestrian links Provision of retail arcades providing a direct through site pedestrian link to an off-street car parking area or other public place is encouraged	The development provides ground floor retail tenancies along the Anzac Parade frontage. The provision of a retail arcade and associated through site link is not appropriate on this site, given the requirements to provide suitable loading facilities and the lack of public parking or other public place to the rear.	Satisfactory
Building composition and proportion New buildings should incorporate a vertical emphasis in the composition of their building facades and architectural detailing.	The facades of the building are divided into smaller proportions through the use of a range of architectural elements, such as blade walls, balconies, sun shade devices and finishing	Satisfactory

This can be reinforced by the window design and parapet detailing. Front facades should be architecturally treated to create visual interest and diversity. Large expanses of highly reflective coloured surfaces should be avoided. Side and rear facades should be designed to comparable standards of visual quality as the front facades. Large areas of blank unrelieved walls should be avoided.	materials.	

Development Control Plan - Parking

The Parking DCP, effective from 24 December 1998, is applicable to the proposal. Part 2.3 of the DCP specifies parking rates for various land uses as follows:

Multi Unit Housing

- 0.5 space / studio
- 1 space / 1-bedroom dwelling (over 40m²)
- 1.2 spaces / 2-bedroom dwelling
- Visitor parking: 0.25 space / dwelling or part thereof
- Bicycle parking: 1 space / 3 dwellings, plus 1 visitor / 10 dwellings
- Car wash bays: 1 bay / 12 dwellings

Clubs

1 space / 6m² bar, lounge, entertainment venues, restaurant, dining room, games rooms, auditoriums and disco, etc.

- + 1 space / 3 employees
- + 1 space / 2 bedrooms
- + 1 space / manager / caretaker
- + coach / taxi drop-off and pick-off bay

Business Premises

1 space / 40m² GFA

Restaurants

1 space / 40m² GFA for first 80m² then 1 space / 20m² thereafter

Service and Delivery

Restaurant

1 space / 400m² GFA up to 2000m² GFA (all spaces adequate for trucks)

Multi unit housing

1 space / 50 dwellings up to 200

Accessible (Disabled) Parking

Retail / commercial

1-2%

Required	Proposed	Compliance
Multi Unit Housing Studio units: 4.5 spaces 1-bedroom units: 51 spaces 2-bedroom units: 7.2 spaces Visitor: 16.5 spaces Car wash bays: 5.5 bays Bicycle: 22 spaces + 6.6 visitor spaces	Residents' spaces: 65 Car wash / exclusive residential visitor bays: 4 Bicycle parking: 23	Does not comply with residential visitor, car wash bay and visitor bicycle parking requirements
Club Based on floor space data provided by the applicant, the bar, lounge, entertainment venues, restaurant, dining room, games rooms, auditoriums and discos, etc. of the club amounts to 772m ² : 132 spaces	Club spaces: 30	Does not comply
Business Premises 507m ² : 12.7spaces	Dedicated retail spaces: 6 Shared visitor spaces with restaurant and apartments: 17	Does not comply
Restaurant 283m ² : 12.15 spaces	Shared visitor spaces with retail units and apartments: 17 (see "Business Premises" above)	Does not comply
Service / Delivery	A loading dock capable of accommodating 2 small rigid vehicles (SRV) simultaneously is provided	Satisfactory
Accessible / Disabled Parking	53 spaces are provided for retail / club / restaurant uses, where 2 of which (3.8%) are accessible (disabled) spaces	Satisfactory

☐ Adequacy of club parking

On 10 June 1969, Council approved the erection of a single storey licensed club premises, subject to a condition that required 24 off-street parking spaces, together with an annual donation of \$1,000 for a period of 25 years. The donation will be used for the purposes of providing 20 off-street parking spaces in the Kingsford shopping centre by Council. A deed of agreement was entered into between the club owner and Council to this effect.

On 6 December 1971, Council granted approval for the erection of a part 2- and part 3-storey licensed club premises, subject to the provision of 35 car spaces, plus the previously agreed upon monetary contribution in lieu of additional parking spaces.

A Section 96 application to modify development consent (DA 212/1969) was lodged with Council in 2006. A search of Council's records indicated that a Section 102 application to delete Condition No. 8 of the development consent granted on 14 September 1971 was approved by Council on 31 August 1987. Condition No. 8 states that "*an agreement being entered into with Council with regard to making available the parking area for public use on stated days and between stated times.*" The aforementioned approval essentially released the Club from the terms of the Deed and allowed the Club full and exclusive use of the car park as intended in the Section 96 application. The applicant also advised Council at this time that full payment of the donation specified under the Deed of Agreement has been made and provided details from the Clubs accounts for the year ended 31 March 1988 indicating that full payment

was made in that year. A check of Council's records to verify the payment indicated that no proof of the payment of the donations exist on file. Notwithstanding this, it should be equally noted that there is no proof as well that the donation had not been paid. In this regard, Council's solicitor has provided verbal advice that due to the time that has lapsed since the last scheduled payment, and that the statute of limitations requires that the minimum period that records should be maintained is 6 years, it would be unreasonable to press for evidence of payment. As such, the claim that the payment of the donation as specified in the Deed of Agreement has been made is considered reasonable in the circumstances. The applicant was advised to withdraw the above Section 96 application.

For the purposes of the subject development application, assessment is made in respect of the proposal as submitted to Council and the currently applicable planning controls.

The proposal only provides 30 parking spaces for use in association with the club and does not comply with Council's control. Notwithstanding, the proposed parking provision is considered acceptable based on the following reasons:

- The existing club has a floor area of 1,828m² and off-street car parking for 34 vehicles. The proposed new club has an area of 1,152m² (being 676m² less than the existing club) and off-street parking for 30 vehicles. The amount of club floor space has been significantly reduced and the proposed new club is anticipated to generate a lower parking demand.
- The parking rate of 1 space per 38.4m² floor area is considered to provide a high level of parking. The proposed rate is higher than that of "business premises" (i.e. office / shop) under the DCP.
- The site is located within the Kingsford Commercial Centre and has convenient access to public bus and taxi services. It is anticipated that a significant proportion of club patrons will utilise public transport instead of relying on private vehicles due to alcohol consumption. It is also expected that car pooling for related patrons will be a common practice.

☐ Adequacy of residential parking

The proposal includes 65 parking spaces allocated for the residential units and fully complies with Council's control. However, the proposal does not comply with the visitor parking and car wash bay requirements. Specifically, there will be a shortfall of 12.5 residential visitor spaces and 1.5 car wash bays.

- The shortfall in car wash bays provision is not significant and is acceptable, especially having regard to water consumption and sustainability consideration.
- The proposal has included 17 shared visitor spaces between the restaurant, retail units and apartments. The visitor parking demand between the residential and retail land use components do not occur concurrently. The retail visitor parking tends to be at peak demand during the day time period, while the opposite applies to the residential counterpart. However, it is acknowledged that the restaurant will still generate a high level of visitor parking demand during night time.

It is noted that the proposal will generate a Section 94A development contribution of \$171,975.5, when compared to the amount of levy under the previous Section 94 Development Contributions Plan (effective from July 2003) of \$114,931.1. The proposal will provide an increased level of development contributions to Council for undertaking a range of public domain improvements, including the provision of on-street and off-street parking identified in Council's Works Schedule. In this context, the proposed

shared parking arrangement is considered acceptable given that additional public parking will be indirectly funded by this development.

- The proposal will also result in a minor shortfall in bicycle parking provision of 5.6 or 6 spaces / racks. A specific condition is recommended to require full compliance with Council's controls.

☐ Adequacy of retail and restaurant uses

The proposal includes 6 dedicated parking spaces for retail uses and 17 shared spaces between retail, restaurant and residential visitors.

- The proposal will effectively provide 2 long-stay staff parking per retail unit, which is considered appropriate given the proposed floor space of each retail tenancy, which tends to attract local shops or small businesses.
- The site is located within the Kingsford Commercial Centre and the retail and restaurant patrons are likely to undertake multi-purpose trips. In these instances, such persons may park their car elsewhere and walk to the site.
- The restaurant customers may patronise the restaurant incidental to their visit to the club, and will not generate additional parking demand.

Overall, the proposal is consistent with the provisions of draft SEPP 66, which encourages the minimisation of car parking and maximisation of public transport usage and alternate modes of transport (i.e. cycling). The proposal has adopted a shared parking arrangement between land use components, which is reasonable having considered the highly accessible location of the site.

☐ Adequacy of loading dock design

The entry to the loading dock has a vertical clearance of between 3.6m and 3.725m, with internal clearance varying between 3.6m and 3.65m. The loading dock is intended to facilitate deliveries and waste removal for the Castellarizian Club, retail units and the residential apartments.

The dimension of the loading dock is capable of supporting simultaneous parking of 2 small rigid vehicles (SRV). The applicant's transport consultants have provided information to demonstrate that trucks used by brewery delivery, furniture removal and garbage collection companies generally require a height clearance of less than 3.6m. Therefore, the proposed loading dock design is considered adequate for its intended purpose.

Development Control Plan – Outdoor Advertising

The Outdoor Advertising Development Control Plan, effective from 4 August 1998, is applicable to the subject signage proposal. The relevant provisions of the DCP are addressed as follows:

Section 2.2 Business Zones

Control	Proposal	Compliance
Fin signs, projecting wall signs and above awning signs will NOT be permitted.	The proposal seeks approval of one (1) business identification sign for the proposed club premises. The sign will be projected approximately 0.6m beyond the front façade of the building with a dimension of 1.2m (W) x 7.0m (L). The sign will be internally illuminated and display "Cazzie" letterings. The proposed signage is defined as a projecting wall sign under the DCP.	Does not comply

The wording (or advertising content) on any sign should relate to the premises on which the sign is erected or the activities carried on within the premises.	The letterings on the sign relate to the proposed club premises within the building.	Complies
Upper level signs are best located at major focal points to advertise arcades, plazas, etc., and to provide a corporate identity for developments which contain a range of businesses.	The proposed sign will extend from the first floor to approximately half-way of the second floor level. The location of the sign aims at drawing maximum attention from south-bound traffic on Anzac Parade. The signage design is considered to be compatible with the commercial land use components of the subject development.	Complies
Advertising on or attached to buildings must align and relate to the architectural design lines on a building façade or, in the absence of architectural detail or decoration, relate to the design lines of adjacent buildings.	The first floor level of the building incorporates vertical blades and horizontal beams structures that articulate the Anzac Parade façade. The proposed projecting wall sign is considered to be consistent with the grid patterns of the building.	Complies
The visual amenity and value of streetscapes should be protected through careful consideration of proposals for advertising above awning level.	As is discussed in the "SEPP 64" section of this report, the proposed projecting wall sign is not consistent with the desired streetscape character of Anzac Parade and will result in undesirable visual clutter. The proposed signage is of an excessive scale and is not supported.	Does not comply
The size and shape of any outdoor advertising must relate to the size of the building or space to which it is to be attached to or placed on. Larger building facades are capable of accommodating larger signs without detracting from the appearance of the building.	The proposed signage has a dimension of 1.2m (W) x 7.0m (H), with a surface area of 8.4m ² . The frontage length of the building along Anzac Parade is 32.835m. The height of the podium level is approximately 12.5m – 12.7m. Given the scale and size of the building, the proposed signage is not considered to obscure the façade features or overwhelm the subject development <i>per se</i> .	Complies
Outdoor advertising must not dominate or obscure a building or its architectural features. Advertising should be used as a mechanism to highlight and reinforce architectural details.	The proposed signage will not significantly obscure the façade features of the building.	Complies

As discussed in previous sections of this report, the proposed signage is not considered to be consistent with the desired character of Anzac Parade and the Kingsford Commercial Centre. The projecting wall sign is an undesired signage form and is not permitted according to the DCP. Therefore, it is recommended that the signage component be deleted from the current proposal via a specific condition of consent.

Development Control Plan – Footpath Dining and Trading

The Footpath Dining and Trading DCP, effective from 27 July 2004, is applicable to the proposal.

Under Section 1.8 of the DCP, the use of footpath air space for outdoor dining requires the concurrence of the RTA where it is adjacent to a classified road. In this respect, concurrence has been provided by the RTA subject to conditions.

Section 2.2 of the DCP specifies controls relating to use of footpath airspace for outdoor dining purposes, which are addressed as follows:

Control	Comments
Council may consider construction of new 1/F balcony awnings and its use for outdoor dining in Business zones only, where an applicant can demonstrate compliance with the following criteria:	
Approval for first floor indoor dining in the contiguous premises.	The first floor level of the building will accommodate a restaurant premises. The proposed balcony is attached to the above restaurant.
Location in a continuous retail / commercial strip	The site is located on Anzac Parade and within the Kingsford Commercial Centre. That section of Anzac Parade where the proposed building is situated is a continuous retail / commercial strip.
Awnings on adjacent buildings	Awnings are provided to the front façade of Nos. 424-436 and Nos. 450-458 Anzac Parade.
Design complements existing awnings	The height and width of the proposed balcony / accessible awning are similar to the configuration of existing awnings in the immediate vicinity.
Alignment consistent with existing awnings (minimum kerb setback 600mm)	The proposed awning will be setback 600mm from the kerb line, with the exception of recesses for future street tree planting.
Height related to building height and height of adjacent awnings	The proposed balcony has a maximum height of 4.4m above the footpath level and complies with the provisions of the Kingsford Commercial Centre DCP.
Cantilevered over footpath	The proposed balcony is cantilevered over the footpath.
Additional awnings may not be attached to existing fixed awnings	Not applicable.
Performance Criteria	
Design of the balcony must be compatible with the streetscape and	The proposed balcony will be installed with 5m high blade fin walls and beams. This

with the architectural integrity of the building	element of the proposal is considered to result in significant building bulk and detract from the streetscape character of Anzac Parade. A deferred commencement condition is therefore recommended to require deletion or substantial modification of the blade feature walls in order to minimise visual intrusion. The balcony is unroofed and is substantially open in nature. The structure is not considered to overwhelm the pedestrian scale or streetscape character, subject to condition.
Will not adversely affect the heritage significance of a heritage item or a heritage conservation area	The O'Dea's Corner at No. 424-432 Anzac Parade is classified as a heritage item under RLEP 1998. The site is separated from the above item by No. 436 Anzac Parade. Specifically, the site is approximately 10.5m from the nearest boundary of the No. 432 Anzac Parade. The balcony is unroofed and is substantially open in nature. As discussed above, the balcony does not present as an enclosed structure of excessive building bulk, and will not result in significant visual impacts on the curtilage of the heritage item, subject to a deferred commencement condition that requires deletion or substantial modification of the blade wall features.
Will not adversely affect the amenity and safety of the footpath below or the adjacent road	The proposed balcony will provide weather protection for the footpath below. A specific condition will be recommended to ensure the proposed works comply with the BCA.
Will not obstruct the visibility of traffic signs and signals or pedestrian crossings	The site is not located in close proximity to traffic signals or pedestrian crossing.
Will not hinder the use by pedestrians and vehicles of the footpath and adjacent road	The proposed balcony is cantilevered and will not obstruct pedestrian or vehicular traffic.
Will not adversely affect the amenity and safety of adjoining properties in terms of noise, overlooking or security	The proposed balcony is located on first floor level and is oriented towards Anzac Parade, which is an arterial road. The adjoining development to the south at No. 450-458 has office suites on the first floor level facing Anzac Parade. The proposal is not considered to result in significant additional noise beyond the ambient noise level or unacceptable overlooking.
Will not adversely affect views	The proposed balcony will not obstruct significant views or vistas along Anzac Parade.
Is not located on a corner site unless visibility, traffic, safety and aesthetic issues are not adversely affected	Not applicable.
Is consistent with the use of other adjacent awning balconies	The dimension of the awning balcony is consistent with the configuration of

	awnings on adjacent developments. The use of the balcony for outdoor dining purposes is considered to activate the street and is suitable in the commercial centre context.
Is not enclosed	The proposed balcony is substantially open in design and is not enclosed.

8.3 Council Policies

Section 94A Development Contributions Plan

The Section 94A Development Contributions Plan, effective from 2 July 2007, is applicable to the proposal. In accordance with the Plan, the following monetary levy is required:

Total estimated development cost \$15,634,139, excl. GST or \$17,197,552.9, incl. GST

Category	Cost	Applicable Levy	S94A Levy
Development cost \$100,001 - \$200,000	-----	0.5%	-----
Development cost more than \$200,000	\$17,197,552.9	1.0%	\$171,975.5

9. ENVIRONMENTAL ASSESSMENT

The site has been inspected and the application assessed having regard to Section 79C of the Environmental Planning and Assessment Act, 1979, as amended.

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	Refer to the “Environmental Planning Instruments” section of this report for details.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft SEPP 66: <i>Integration of Land Use and Transport</i> applies to development having a gross floor area of more than 1,000m², and therefore is relevant to the consideration of the subject proposal. It is considered that the proposal is not inconsistent with the provisions of the draft policy in that: ☐ The development will provide apartment style housing in a locality that is well served by public transport. ☐ The development will deliver a high quality pedestrian environment along Anzac Parade. ☐ The development provides secured on-site bicycle parking. ☐ The development does not provide excessive on-site parking spaces.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Refer to the “Policy Control” section of this report.

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(iia) - Provisions of any Planning Agreement or Draft Planning Agreement	None applicable.
Section 79C (1) (a)(iv) - Provisions of the regulations	Clause 7 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia. Accordingly, appropriate conditions of consent are recommended for imposition should this application be considered suitable for approval. Clause 92 of the Regulation requires the consent authority to consider relevant Australian Standards relating to demolition of structures. Accordingly, a specific condition is recommended for imposition to require compliance with Australian Standard 2601. Clause 93 of the Regulation requires the consent authority to consider the structural capacity and fire safety aspects of a building. Accordingly, appropriate conditions are recommended to address the above matters.
Section 79C (1) (b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) The environmental impacts of the proposed development on the natural and built environment have been assessed against relevant planning control documents in this report. The following paragraphs provide further assessment on the environmental aspects of the proposal, which are not otherwise addressed in the previous sections of this report. (ii) The proposed development is consistent with the types of land uses envisaged for the Kingsford Commercial Centre, and is considered to reinforce the vibrancy of the commercial / retail precincts in the locality. Given the site's proximity to the university and hospital precincts, the proposed housing mix will provide suitable accommodation for students, hospital staff and young couples, supported by public transport services. The proposal is not considered to result in detrimental social impacts on the locality. (iii) The proposal is not considered to result in detrimental economic impacts on the locality considering the mixed use nature of the development.
Section 79C (1) (c) – The suitability of the site for the development	<u>Location</u> The site is located within the Kingsford Commercial Centre and has convenient access to the local and regional transport network. Established commercial and retail uses are within

Section 79C 'Matters for Consideration'	Comments
	walking distance from the site. The site is also located in close proximity to major activity nodes, such as the UNSW and Prince of Wales' Hospital. <u>Physical</u> The site has sufficient area to accommodate the proposed land uses and structures. Therefore, the site is considered suitable for the proposed development.
Section 79C (1) (d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 79C (1) (e) – The public interest	The proposal is not considered to result in significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered satisfactory in public interest terms.

Shadow impacts on surrounding developments

Potential impacts on Nos. 450-458 Anzac Parade:

Level 1 of the above building accommodates car parking and office suites. The lower levels (being levels 2 and 3) have been configured such that the north-facing units are commercial suites and not residential apartments, according to Council's approved drawings. The residential apartments at the lower levels are oriented to the east and west, with frontage to Middle Lane and Anzac Parade respectively.

The applicant has submitted shadow diagrams for the period between 9am and 3pm on 21 June, to depict potential impact of the proposal on the approved development at Nos. 450-458 Anzac Parade. The anticipated shadow impacts are described as follows:

- ☐ On 21 June, all of the residential units fronting Middle Lane and Anzac Parade achieve satisfactory solar access and are not affected by overshadowing from the proposed development.
- ☐ Of the 20 residential units within the development, only 6, which are oriented to the north, are affected by overshadowing from the proposal on 21 June:
 - Units 4.02 and 4.03 on level 4 are overshadowed throughout the day
 - Unit 5.02 receives solar access between 9am and 11am, after which it is overshadowed by the proposed development
 - Unit 5.03 receives direct solar access between 9am and 12 noon
 - Unit 6.02 receives solar access between 9am and 12 noon
 - Unit 6.03 receives solar access between 12 noon to 3pm

Therefore, the majority of units within the development receive at least 2 and generally 3 hours of solar access in mid-winter. Given the orientation of the subject site and its location within a densely developed urban setting, some overshadowing impacts are inevitable. The proposal is considered acceptable in this regard.

Potential impacts on developments along the eastern side of Middle Lane

Due to the general north-south orientation of the subject site, shadows will only be cast on properties along the eastern side of Middle Lane (western side of Harbourne Road) in the afternoon period. The above developments will not be overshadowed by the proposed building in the morning period.

Privacy

Potential privacy impacts on future redevelopment of Nos. 424-436 Anzac Parade

It is envisaged that any residential units within the building at Nos. 424-436 would be oriented towards the east, west and north, and not the south due to solar access consideration. In this respect, it is unlikely that there would be any significant opportunities for adverse privacy impacts between the proposed north-facing units and the adjoining site. Furthermore, based on Council's controls, a separation distance of approximately 12m can be achieved between the two buildings.

Potential privacy impacts on Nos. 450-458 Anzac Parade

The circulation corridors / breezeways in the southern portion of the proposed building have incorporated fixed opaque glass louvres to maximise natural lighting and ventilation while minimising overlooking into the building to the south. The proposal is considered satisfactory in this regard.

Noise

The proposed outdoor terrace for the club premises carries noise implications on the adjacent developments along the eastern side of Middle Lane. The applicant has submitted an acoustic assessment report, which recommends the following measures for minimising potential noise impacts:

- ☐ A 1.8m high imperforated screen wall is proposed along the full length of the outdoor terrace at the rear of the club to minimise noise transmission to neighbouring properties.
- ☐ Acoustic ceiling panels are proposed to the ceiling of the outdoor terrace to minimise noise transmission to neighbouring properties.
- ☐ Air-locks with automatic self-closing doors are proposed to the doorway of the outdoor terrace. This will minimise transmission of noise from the inside of the club to the exterior of the premises.
- ☐ It is proposed, by the applicant, to limit the use of the club terrace to midnight.

Specific conditions of consent are recommended to ensure the above noise attenuation measures are implemented. Subject to the above conditions, the proposal is considered to have minimised potential noise impacts on the surrounding areas.

10. RELATIONSHIP TO CITY PLAN

The relationship with the City Plan is as follows:

Outcome:	Leadership in sustainability, excellence in urban design and development, integrated transport and land use
Direction:	Improved design and sustainability across all development, integrating transport and pedestrian links between town centres and key locations
Key Action:	Encourage and reward design excellence and sustainability, establishing Anzac Parade as the future boulevard

11. FINANCIAL IMPACT STATEMENT

There is no direct financial impact for this matter.

12. CONCLUSION

The proposed development satisfies the relevant provisions of SEPP 1 Development Standards, SEPP 11 Traffic Generating Development, SEPP 64 Advertising and Signage, SEPP 65 Design Quality of Residential Flat Development, SEPP Building Sustainability Index, Randwick LEP 1998, DCP Kingsford Commercial Centre, DCP Parking, DCP Outdoor Advertising and DCP Footpath Dining and Trading, subject to conditions.

The proposal will introduce a suitable mixture of residential, retail and entertainment uses, which will reinforce the vibrancy of the Kingsford Commercial Centre. The proposed development will present as a contemporary building of high quality architectural design, which will enhance the streetscape character of Anzac Parade as a future grand boulevard.

The proposed 5m high blade wall features attached to the western balcony on the first floor level are considered to result in a significant building bulk and detract from the Anzac Parade streetscape. It is recommended that a deferred commencement condition be imposed to require deletion or substantial modification of this element, in order to minimise visual bulk.

Having regard to all relevant matters for consideration, the proposal, subject to compliance with the recommended conditions, will not result in significant adverse impacts upon either the amenity of the nearby properties or the character of the locality. The application is therefore recommended for approval by deferred commencement.

RECOMMENDATION:

- A. THAT Council support the objection under State Environmental Planning Policy 1 – Development Standards in respect to non-compliance with Clause 33(5) of the Randwick Local Environmental Plan 1998 (relating to maximum building height), on the grounds that the proposed development complies with the objectives of the clause and will not adversely affect the amenity of the locality, and that the Department of Planning be advised accordingly.
- B. THAT Council, as the consent authority, grant development consent by “Deferred Commencement” under Section 80(3) of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 679/2007 for demolition of existing structures on site and construction of a part 3- and part 7-storey mixed use development comprising 3 retail units, a restaurant, a new Castellorizian Club, 66 residential apartments and basement parking for 122 vehicles, at No. 438-448 Anzac Parade, Kingsford, subject to the following conditions:

Deferred Commencement Conditions

The consent is not to operate until the following information / materials / amendments have been submitted to, and approved by, Council’s Director of City Planning:

- 1. The proposed 5m high blade wall and beam structures attached to the first floor balcony on the western, Anzac Parade frontage of the development are to be deleted or substantially modified as appropriate, in order to minimise building bulk and ensure consistency of the Anzac Parade streetscape. Amended drawings demonstrating compliance with the above requirements are to be submitted to the satisfaction of Council.

2. Amended drawings are to be submitted to clearly indicate the proposed colours, materials and finishing of the external surfaces of the building. Appropriate legends are to be incorporated on the plans.
3. Amended drawings are to be submitted to clearly indicate the provision of continuous awning / balcony along the Anzac Parade frontage of the site.

Additionally, in order to ensure the retention of the two (2) *Platanus x hybrida* (London Plane Trees) located within Council's Anzac Parade footpath reserve, the proposed awning / balcony along the Anzac Parade frontage shall be amended to show a clearance of 2.50 metres from the outside edge of the trunks of both street trees in this location.

4. A minimum of twenty-nine (29) bicycle parking racks or other appropriate storage facilities are to be provided in the basement levels of the development.

Evidence demonstrating satisfaction of the above conditions must be submitted to Council within twelve (12) months of the date of this consent.

- C. Subject to compliance with the deferred commencement conditions, to the satisfaction of the Director of City Planning, development consent is granted under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, as amended, subject to the following conditions:

Conditions of Consent

The following conditions are applied to satisfy the provisions of Section 79C of the Environmental Planning and Assessment Act 1979 and to maintain reasonable levels of environmental amenity:

1. The development must be implemented substantially in accordance with the following plans:

Plan Number / Title	Prepared By	Dated
2006172 DA00(C)	Jackson Teece Architecture	17-10-07
2006172 DA01(B)	Jackson Teece Architecture	17-10-07
2006172 DA10(D)	Jackson Teece Architecture	17-10-07
2006172 DA11(C)	Jackson Teece Architecture	17-10-07
2006172 DA12(D)	Jackson Teece Architecture	17-10-07
2006172 DA13(B)	Jackson Teece Architecture	17-10-07
2006172 DA14(C)	Jackson Teece Architecture	17-10-07
2006172 DA15(B)	Jackson Teece Architecture	17-10-07
2006172 DA16(B)	Jackson Teece Architecture	17-10-07
2006172 DA17(B)	Jackson Teece Architecture	17-10-07
2006172 DA18(B)	Jackson Teece Architecture	17-10-07
2006172 DA 19(D)	Jackson Teece Architecture	17-10-07
2006172 DA20(D)	Jackson Teece Architecture	17-10-07
2006172 DA30(C)	Jackson Teece Architecture	17-10-07
2006172 DA31(C)	Jackson Teece Architecture	17-10-07
2006172 DA32(C)	Jackson Teece Architecture	17-10-07
2006172 DA33(A)	Jackson Teece Architecture	17-10-07
2006172 DA 40(C)	Jackson Teece Architecture	17-10-07
2006172 DA41(B)	Jackson Teece Architecture	17-10-07

2006172 DA42(B)	Jackson Teece Architecture	17-10-07
2006172 DA43(A)	Jackson Teece Architecture	17-10-07
2006172 DA44(B)	Jackson Teece Architecture	26-10-07
Landscape Plan L01/2-R12513	Michael Siu Landscape Architects Pty. Ltd.	18 October 2007
Landscape Plan L02/2-R12514	Michael Siu Landscape Architects Pty. Ltd.	18 October 2007

, the application form and any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans:

2. The proposed projecting wall sign of 1,200mm (width) x 7,000mm (height) in dimension and displaying "Cazzie" letterings as shown on the approved plans shall be deleted from the proposal. Details demonstrating compliance with the above requirements shall be submitted to the satisfaction of the Principal Certifying Authority, prior to issue of the Construction Certificate.
3. Nothing in this consent permits or implies the erection / installation of any business identification or advertising signage with the exception of that identified in Council's *Development Control Plan for Exempt and Complying Development*. The erection of any signage, which is not identified in the above development control plan will require the approval of a separate development application by Council.
4. A separate development application is to be submitted to, and approved by, Council for the occupation, use or fit-out of the ground floor 'Retail' units and first floor 'Restaurant' area within the subject development.
5. Laundry facilities, including water tap, sink and an appropriately dimensioned space for storing of a washing machine, are to be provided for each and every residential apartment unit within the development. Details demonstrating compliance with the above requirements are to be submitted to the satisfaction of the Principal Certifying Authority, prior to issue of the Construction Certificate.
6. A ceiling fan is to be provided in the living room area of each and every residential apartment unit within the development. Details demonstrating compliance with the above requirements shall be submitted to the satisfaction of the Principal Certifying Authority, prior to issue of the Construction Certificate.
7. Adequate security measures, such as railings, balustrades or the like, shall be installed at the western end of the access corridor and the windows and balconies of Units 3.09 and 3.10 on the third (3rd) floor level of the building, in order to prevent access to the 5m setback area fronting Anzac Parade on that level. The above setback area shall not be used as communal or private open space or recreation areas at all times. Details demonstrating compliance with the above requirements shall be submitted to the satisfaction of the Principal Certifying Authority, prior to issue of the Construction Certificate.
8. All pathways or corridors for accessing the residential storage units on the basement levels shall have a minimum clear width of 1.0m and be provided with adequate lighting. Details demonstrating compliance with the above requirements shall be submitted to the satisfaction of the Principal Certifying Authority, prior to issue of the Construction Certificate.

9. A security swipe card system or equivalent shall be installed in the residential / restaurant lift, so that public access is restricted to the Restaurant area on the first floor level, with access to the residential levels above limited to those persons possessing the required swipe card. Details demonstrating compliance with the above requirements shall be submitted to the satisfaction of the Principal Certifying Authority, prior to the issue of any Interim / Final Occupation Certificate.
10. An intercom system is to be installed at the residential lobby for use by residential visitors.

Public access to the visitor's car parking spaces is to be maintained at all times and where applicable, an intercom system is to be provided adjacent to the vehicular entrance to the car park, together with appropriate signage provision and instructions for use.

Details demonstrating compliance with the above requirements shall be submitted to the satisfaction of the Principal Certifying Authority, prior to the issue of any Interim / Final Occupation Certificate.
11. Any gate or door openings shall be constructed so that they will not open over the footpath or a public place.
12. All plumbing and drainage pipes, other than rainwater heads, gutters and downpipes, must be concealed within the building.
13. Street numbering must be provided to the development in a prominent position, to the satisfaction of Council.
14. Lighting to the development shall be designed so as not to cause a nuisance to nearby residents or motorists and to ensure that light overspill does not affect the amenity of the area.
15. Interpretive materials in the form of historic photographs / drawings of the exterior and interior of the existing Castellorizian Club building or earlier premises occupied by the Club, and other material depicting the immigrant experience of the Castellorizian community shall be provided within the public areas of the new building.

The following conditions are imposed to promote ecologically sustainable development and energy efficiency:

16. In accordance with Section 80A (11) of the Environmental Planning and Assessment Act 1979 and Clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition that all of the required commitments listed in the relevant BASIX Certificate for this development are fulfilled.
17. In accordance with the provisions of the Environmental Planning & Assessment Regulation 2000, a relevant BASIX Certificate and associated documentation must be submitted to the Certifying Authority with the **Construction Certificate** application for this development.

The required commitments listed and identified in the BASIX Certificate are to be included on the plans, specifications and associated documentation for the proposed development, 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.

18. The following provisions are to be implemented in accordance with the relevant BASIX Certificate and details are to be included in the Construction Certificate documentation (as applicable), to the satisfaction of the Certifying Authority:
- Stormwater management (i.e. rainwater tanks)
 - Water efficiency (i.e. triple A rated taps and showers, dual flush toilets and water re-use)
 - Landscaping provisions
 - Thermal comfort (i.e. construction materials, glazing and insulation)
 - Energy efficiency (i.e. cooling & heating provisions and hot water systems)
19. In accordance with Clause 154B of the Environmental Planning & Assessment Regulation 2000, a Certifying Authority must not issue a final Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments has been fulfilled.

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

The following conditions are applied to ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations:

20. 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 legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of `on-the-spot` penalty infringements or service of a notice and order by Council.

21. All building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA) pursuant to Clause 98 of the *Environmental Planning and Assessment Regulation 2000*.
22. **Prior to the commencement of any building works, a construction certificate must be obtained** from Council's Building Certification Services or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

A copy of the construction certificate, the approved plans & specifications and development 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.

23. **Prior to the commencement of any building works**, the person having the benefit of the development consent must:-

- i) appoint a *Principal Certifying Authority* for the building work, and
- ii) appoint a *principal contractor* for the building work, or in relation to residential building work, obtain an *owner-builder* permit in accordance with the requirements of the Home Building Act 1989, and notify the *Principal Certifying Authority* and Council accordingly in writing, and
- iii) unless the person having the benefit of the consent is the *principal contractor* (i.e. *owner-builder*), notify the *principal contractor* of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*, and
- iv) give at least two days notice to the Council, in writing, of the persons intention to commence building works.

In relation to residential building work, the principal contractor must be the holder of a contractor licence, in accordance with the provisions of the Home Building Act 1989.

24. The building works must be inspected by the *Principal Certifying Authority* (or another *certifying authority* if the *Principal Certifying Authority* agrees), in accordance with section 109 E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

The *Principal Certifying Authority* must specify the relevant stages of construction to be inspected in accordance with clause 81A (2) (b1) (ii) of the Environmental Planning & Assessment Regulation 2000 and a satisfactory inspection must be carried out, to the satisfaction of the *Principal Certifying Authority*, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

Documentary evidence of the building inspections carried out and details of compliance with Council's consent is to be maintained by the *Principal Certifying Authority*. Details of *critical stage inspections* carried out and copies of certification relied upon must also be forwarded to Council with the *occupation certificate*.

The *principal contractor* or *owner-builder* (as applicable) must ensure that the required critical stage and other inspections, as specified in the *Principal Certifying Authority's* "Notice of Critical Stage Inspections", are carried out to the satisfaction of the *Principal Certifying Authority* and at least 48 hours notice (excluding weekends and public holidays) is to be given to the *Principal Certifying Authority*, to carry out the required inspection, before carrying out any further works.

25. 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".

26. An **Occupation Certificate** must be obtained from the Principal Certifying Authority prior to any occupation of the building work encompassed in this development consent, in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The requirements of the Environmental Planning & Assessment Act 1979 and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

27. **Prior to the issuing of an interim or final occupation certificate**, a statement is required to be obtained from the Principal Certifying Authority, which confirms that the development is not inconsistent with the development consent and the relevant conditions of development consent have been satisfied.

Details of *critical stage* inspections carried out by the principal certifying authority together with any other certification relied upon must also be provided to Council with the occupation certificate.

28. In accordance with clause 98 of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition, that in the case of residential building work, a contract of insurance must be obtained and in force, in accordance with the provisions of the Home Building Act 1989.

Where the work is to be done by a licensed contractor, excavation or building work must not be carried out unless the Principal Certifying Authority (PCA):

- has been informed in writing of the licensee's name and contractor number; and
- is satisfied that the licensee has complied with the insurance requirements of Part 6 of the *Home Building Act 1989*, or

Where the work to be done by any other person (i.e. an *owner-builder*), excavation or building work must not be carried out unless the Principal Certifying Authority:

- has been informed of the person's name and *owner-builder* permit number, or
- has been given a declaration, signed by the owner of the land that states that the market cost of the labour and materials involved in the work does not exceed \$5,000.

Details of the principal building contractor and compliance with the provisions of the *Home Building Act 1989* (i.e. *Details of the principal licensed building contractor and a copy of the Certificate of Insurance*) are to be submitted to Council **prior to the commencement of works**, with the notice of appointment of the PCA / notice of intention to commence building work.

29. The required Long Service Levy payment, under the Building and Construction Industry Long Service Payments Act 1986, is to be forwarded to the Long

Service Levy Corporation or the Council, prior to the issuing of a Construction Certificate, 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.

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

The approved Construction Certificate plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to commencing any building or excavation works, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

If suitable, the plans will be appropriately stamped. For Quick Check agent details please refer to Sydney Water's web site at www.sydneywater.com.au and go to the Building, Developing and Plumbing section, then Quick Check or Building and Renovating or telephone 13 20 92.

The principal certifying authority must ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans **before commencing any works**.

31. A Fire Safety Certificate must be submitted to Council **prior to the issuing of an Occupation Certificate**, in accordance with the requirements of the Environmental Planning and Assessment Regulation 2000.

A single and complete *Fire Safety Certificate* must be provided which includes details of all of the fire safety measures contained in the building and as detailed in the *fire safety schedule* attached to the Construction Certificate.

Prior to issuing any Occupation Certificate the Principal Certifying Authority must be satisfied that all of the relevant fire safety measures have been included and are sufficiently detailed within the *Fire safety Certificate*.

A copy of the *fire safety certificate* must be displayed in the building near the entrance and a copy must be forwarded to the NSW Fire Brigades.

32. In accordance with the provisions of clauses 143A and 154A of the Environmental Planning & Assessment Regulation 2000, a 'Design Verification Certificate' must be provided to the Certifying Authority and the Council, **prior to issuing a construction certificate** and an **occupation certificate**, respectively.

The following group of conditions have been applied to ensure the structural adequacy and integrity of the proposed building and adjacent premises:

33. Documentary evidence prepared by a suitably qualified *professional geotechnical engineer* shall be submitted to the certifying authority **prior to the issuing of a construction certificate**, certifying the suitability and stability of the site for the proposed building and certifying the suitability and adequacy of the proposed design and construction of the building for the site.

34. A report shall be prepared by a *professional engineer* and submitted to the certifying authority **prior to the issuing of a construction certificate**, detailing the proposed methods of excavation, shoring or pile construction, including details of potential vibration emissions. The report must demonstrate the suitability of the proposed methods of construction to overcome any potential damage to nearby land/premises.

Any practices or procedures specified in the engineer's report in relation to the avoidance or minimisation of structural damage to nearby premises, must be fully complied with and incorporated into the documentation for the **construction certificate**.

A copy of the engineers report is to be submitted to the Council, if the Council is not the certifying authority.

35. Driven type piles/shoring must not be provided unless a geotechnical engineer's report is submitted to the certifying authority, **prior to the issuing of a construction certificate**, which demonstrates that damage should not occur to any adjoining premises and public place as a result of the works.

Any practices or recommendations specified in the engineer's report in relation to the avoidance or minimisation of structural damage to nearby premises or land must be fully complied with and incorporated into the documentation for the **construction certificate**.

36. A dilapidation report prepared by a *professional engineer* or suitably qualified and experienced building surveyor shall be submitted to the certifying authority **prior to the commencement of demolition, excavation or building works** detailing the current condition and status of all buildings, including ancillary structures (*i.e. including dwellings, residential flat buildings, commercial/industrial building, garages, carports, verandah's, fences, retaining walls, swimming pools and driveways etc.*) located upon all of the premises adjoining the subject site.

The report is to be supported with photographic evidence of the status and condition of the buildings and a copy of the report must also be forwarded to the Council and to the owners of each of the abovestated premises, **prior to the commencement of any works**.

37. The installation of ground or rock anchors underneath any adjoining premises including (a public roadway or public place) must not be carried out without specific written consent of the owners of the affected adjoining premises (including the Council if bounding a public place) and details of compliance must be provided to the certifying authority **prior to the commencement of any excavation or building works**.

38. A Certificate prepared by a *professional engineer* shall be submitted to the certifying authority (*and the Council, if the Council is not the certifying authority*) **prior to issuing an occupation certificate**, which certifies that the building works satisfy the relevant structural design requirements of the Building Code of Australia.

The following condition is applied to provide adequate security against damage to Council's infrastructure:

39. The following damage/civil works security deposit requirement is to be complied with prior to a construction certificate being issued for the

development, as security for making good any damage caused to the roadway, footway, verge or any public place; or 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:

\$2000.00 - Damage / Civil Works Security Deposit

The damage/civil works security deposit may be provided by way of a cash or cheque with the Council and is refundable upon:

- A satisfactory inspection by Council that no damage has occurred to the Council assets such as roadway, kerb, guttering, drainage pits, footway, or verge; and
- Completion of the civil works as conditioned in this development consent by Council.

The applicant is to advise Council, in writing, of the completion of all building works and/or obtaining an occupation certificate, if required.

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.

The following conditions are applied to provide adequate provisions for access, transport and infrastructure:

40. The vehicular access, basement one car park and basement two car park (including, but not limited to, the ramp grades, car park layout and height clearances) are to be in accordance with the requirements of AS2890.1: 2004. The Construction Certificate plans must demonstrate compliance with this requirement, particular attention is to be given to the design gradients along the proposed internal ramps.
41. The applicant must meet the full cost for Council or a Council approved contractor to:
 - a. Construct full width heavy duty vehicular crossings in Middle Lane opposite the vehicular entry/exit points for the site and the proposed Loading Dock.
 - b. Remove any redundant vehicular crossings and to reinstate the area to Council's specification
 - c. Remove the existing kerb and gutter in Middle Lane for the full site frontage excluding that part of the kerb and gutter fronting units G.01 and G.02.
 - d. Construct new kerb and gutter for the full site frontage except opposite the vehicular entry and exit points and the area in front of units G.01 and G.02. Note: the new kerb and gutter shall be constructed approximately 600mm to the west of the current kerb and gutter.
 - e. Carry out a full depth, minimum 3.0 metre wide, road construction in front of the new/reconstructed kerb and gutter in Middle Lane.
 - f. Construct a footpath along the full Middle Lane site frontage, except

opposite the vehicular entry and exit points. Any footpath construction works shall use materials that are in accordance with Council's Urban Design Guidelines for Kingsford.

- g. Reconstruct the footpath along the full Anzac Parade site frontage. The footpath reconstruction works shall use materials that are in accordance with Council's Urban Design Guidelines for Kingsford and shall be designed with a general crossfall of 2.5% rising from the existing top of kerb to the property alignment.
42. 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.
43. All external work, carried out on Council property, shall be in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works".
44. All walls adjacent to the vehicular exit should be splayed 1.5 metres by 1.5 metres, and/or lowered to a maximum height of 600mm above the internal driveway and/or suitably setback from the street alignment such that the driver of an exiting vehicle stopped two metres behind the boundary line could observe pedestrians up to two metres away from the exit crossing. Details are to be submitted to the Certifying Authority prior to release of the construction certificate showing compliance with this condition. As an alternative to the above the applicant would be required to submit for approval, and have approved by the Certifying Authority, a traffic management plan aimed at minimising the potential for vehicle/pedestrian conflict at the main exit driveway and the loading dock exit point. The traffic management plan would need to be approved prior to release of the construction certificate and the applicant would be required to meet all costs associated with implementation of the plan including installation of any traffic/pedestrian control devices.
45. Prior to the issuing of an occupation certificate the applicant shall dedicate a strip of land 1.2 metres wide along the Middle Lane site frontage, except for the area in front of units G.01, G.02 and the small portion of the site immediately north of unit G.01. This dedication is required for road widening of Middle Lane.
46. Prior to the issuing of an occupation certificate the applicant shall dedicate a strip of land 0.6 metres wide along that part of the Middle Lane site frontage in front of units G.01, G.02 and the small portion of the site immediately north of unit G.01. This dedication is required for road widening of Middle Lane.
47. Prior to the issuing of an occupation certificate the applicant shall dedicate a 1.5 metre by 1.5 metre splay corner at the north-east corner of the development site, (intersection of Middle Lane and Middle Street).
48. The applicant shall meet the full cost for "No Stopping" restrictions to be installed in Middle Lane along the Middle Lane site frontage to Council's satisfaction.
49. Unimpeded access to commercial/club component of the carpark must be provided during business/operational hours (i.e. any proposed security shutter must remain open to allow access to commercial/club spaces during hours of operation; or alternatively, an intercom system is in place to allow access to

those parking spaces).

50. Any security roller shutter proposed for the ground floor vehicular entry/exit point or loading bay must be suitably located such that operation of the shutters, or any keypads associated with the shutters, will not impact on the through movement of traffic within Middle Lane, (i.e vehicles queuing whilst waiting for shutters to open should not impede through vehicle movements). The Construction Certificate application must demonstrate compliance with this requirement.
51. A separate written approval from Council is required to be obtained in relation to all works which are located externally from the site within the road reserve/public place, in accordance with the requirements of the Roads Act 1993. Detailed plans and specifications of the proposed works are to be submitted to and approved by the Director of City Services prior to commencing any works within the road reserve/public place.

All works within the road reserve/public place must be carried out to the satisfaction of Council and certification from a certified practicing engineer is to be provided to Council upon completion of the works.

Relevant Council assessment and inspection fees, as specified in Council's adopted Pricing Policy, are required to be paid to Council prior to commencement of the works.

52. A Works Zone is to be provided for the duration of the construction works. The 'Works Zone' shall be provided to the satisfaction of the Randwick Traffic Committee and the Roads and Traffic Authority (RTA) and shall have a minimum length of 12 metres. The prescribed fee for the Works Zone must be paid to Council at least four (4) weeks prior to the commencement of work on the site.

It is noted that the requirement for a Works Zone may be waived if it can be demonstrated (to the satisfaction of Council's traffic engineer) that all construction related activities (including all loading and unloading operations) may be undertaken wholly within the site.

53. Prior to the issue of a construction certificate, the applicant shall submit for approval and have approved by Council's Traffic Engineer a detailed construction traffic management plan. The plan shall demonstrate how construction and delivery vehicles will access the development site during the demolition and construction phase of the development.

All traffic associated with the subject development shall comply with the terms of the approved construction traffic management plan.

54. The minimum clear distance from the existing footpath in Anzac Parade to the underside of any proposed awning shall be 3.00 metres or as otherwise specified by the Roads and Traffic Authority. The plans submitted for the construction certificate shall demonstrate compliance with this requirement.
55. Upon completion of the construction of the awning, certification of the structural adequacy of any awning must be provided to the Council.

The following conditions are applied to ensure all works within/above Council's/RTA's road reserve are undertaken in accordance with the appropriate legislation and to Council's/RTA's satisfaction:

56. Consent under section 138 of the Roads Act 1993 shall be obtained from the RTA for erection of the balcony over the Anzac Parade footpath. The Section 138 consent shall be obtained prior to the commencement of any works in the Anzac Parade road reserve.

A copy of the Section 138 consent shall be forwarded to the certifying authority prior to works commencing in the road reserve.

57. All works on the balcony along the Anzac Parade site frontage shall be undertaken by a Council approved contractor. The contractor engaged to undertake the works must hold full public liability in relation to any claims sustained as a result of the works.

The contractor must keep a policy of public risk insurance with respect to the works on Council property. The limit of public risk shall be not less than \$20,000,000 or such other sum as the Council may reasonably nominate in writing from time to time as the amount, which may be paid arising out of any one single accident or event.

NOTES:

- a. The policy shall extend to cover death or injury to any person and damage to property of any person sustained when such person is using or entering the proposed balcony area or the public footway directly beneath the balcony or the area of the proposed new stairs.
 - b. The policy must name the Council as the owner and the contractors undertaking the work as the insured and must contain a clause that the insurer will not change the insurance without first giving the Council ten (10) days prior written notice.
 - c. The insurance must be with an insurer approved by the Council and a copy of the policy or a certificate of insurance shall be submitted to Council prior to the commencement of work on Council property.
58. A minimum 2 metre wide unimpeded pedestrian footway shall be maintained along the Anzac Parade site frontage at all times during the construction works.
59. Prior to erecting any scaffolding/formwork to facilitate works on the balcony structure, the applicant shall obtain an A-class hoarding permit. The applicant is advised to contact Council's Building Certification Unit (9399 0878) regarding this matter.
60. The balcony in Anzac Parade shall be designed to ensure that stormwater runoff from the balcony is directed back into the site stormwater system.
61. Prior to the issue of an occupation certificate, the applicant shall enter into a formal lease agreement with Council for use of the balcony located over the footpath (in public airspace). All costs associated with the rental evaluation, ongoing lease fees, lease preparation and legal costs incurred by the lessor (and lessee) shall be covered by the lessee. It is noted that the lease must be approved by the Department of Planning in accordance with Section 149 of the Roads Act 1993.

The applicant is advised to contact Council's Property Compliance Officer, (9399-0936), regarding Council's requirements for the formal lease agreement.

62. Prior to an occupation certificate being issued for the development, a positive covenant under section 88E of the Conveyancing Act 1919 shall be registered on the title of the subject property, which provides for:-

- The registered proprietors of the Lot(s) burdened to clean, maintain, renew and repair the balcony located over the public footway along the Anzac Parade site frontage, with all works being undertaken to the satisfaction of Council. The area shall be maintained in a clean, tidy and safe condition at all times;
- The registered proprietors of the Lot(s) burdened to hold full public liability in relation to any claims, demands, writs etc. sustained as a result of the balconies and stairs located over the public footway along the Alison Road site frontage;
- The registered proprietors of the Lot(s) burdened to keep a policy of public risk insurance with respect to the balcony along the Anzac Parade site frontage. The limit of public risk shall be not less than \$20,000,000 or such other sum as the Council may reasonably nominate in writing from time to time as the amount, which may be paid arising out of any one single accident or event.

NOTES:

The policy shall extend to cover death or injury to any person and damage to property of any person sustained when such person is using or entering the balcony area or the public footway beneath the balcony.

The policy must name the Council as the owner and the registered proprietors of the Lot(s) burdened as the insured and must contain a clause that the insurer will not change the insurance without first giving the Council ten (10) days prior written notice.

The insurance must be with an insurer approved by the Council and a copy of the policy or a certificate of insurance shall be delivered by the registered proprietors of the Lot(s) burdened to the Council.

- The registered proprietors of the Lot(s) burdened to ensure that no structures are erected, nor goods stored, nor any work carried out in, on or over the public footway other than those approved by Council and the RTA.
- The registered proprietors of the Lot(s) burdened to meet the full cost for the balcony located over Council's footpath to be removed (and the area reinstated to the satisfaction of Council), if either:-
 - (a) The duration of the lease agreement (for use of public airspace) expires and a new lease is not entered into; or
 - (b) The lessee fails to comply with the terms of the lease agreement and/or Council determines that the balcony is posing a safety hazard.

- The positive covenant must not be released, varied or modified without the consent of the Council.
 - The proposed wording for the positive covenant shall be prepared by suitably qualified legal advisors and shall be to the satisfaction of Council. All costs associated with creating, reviewing and registering the positive covenant shall be met by the applicant.
63. 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.

The following conditions are applied to provide adequate provisions for future civil works in the road reserve:

64. The Council's Development Engineer has inspected the above site and has determined that the design alignment level (concrete/paved/tiled level) at the property boundaries for driveways, access ramps and pathways or the like, shall be:

Middle Lane frontage south of unit G.02, (i.e. frontage the subject of 1.2 metre wide dedication for road widening).

- Generally 75mm above the existing centerline of the laneway opposite at all points along the subject section of the site frontage.

Middle Lane site frontage in front of Units G.01 and G.02, (i.e. frontage the subject of 0.6 metre wide dedication for road widening).

- Generally 20mm above the existing top of kerb opposite at all points along the subject section of the site frontage.

Anzac Parade

- Generally 2.5% above the top of kerb opposite at all points along the Anzac Parade site frontage. Note: the issued alignment level for Anzac parade will require reconstruction of the footpath in Anzac Parade.

The applicant must contact Council's Development Engineer (9399 0924) to discuss the issued alignment levels prior to lodgement of the construction certificate application.

The design alignment level at the property boundary must be strictly adhered to.

65. The design alignment levels (concrete/paved/tiled level) issued by Council and their relationship to the roadway/kerb/footpath must be indicated on the building plans for the construction certificate.
66. The above alignment levels from the site inspection by Council's Development Engineer has been issued at a prescribed fee of \$1408.00 calculated at \$44.00 (inclusive of GST) per metre of site frontage to Anzac Parade. This amount is to be paid prior to a construction certificate being issued for the development.

The following conditions are applied to provide adequate consideration for service authority assets:

67. A public utility impact assessment must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.
68. The applicant must meet the full cost for telecommunication companies, gas providers, Energy Australia and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.
69. Documentary evidence from the relevant public utility authorities confirming that their requirements have been satisfied, must be submitted to the certifying authority prior to a construction certificate being issued for the development.
70. Any electricity substation required for the site as a consequence of this development shall be located within the site and shall be screened from view. The proposed location and elevation shall be shown on all detailed landscape drawings and specifications. The applicant must liaise with Energy Australia prior to lodging the construction certificate to determine whether or not an electricity substation is required for the development.
71. The applicant shall meet the full cost of the overhead power lines and telecommunication cables located in the vicinity of the development site to be relocated underground and all redundant power poles to be removed. The applicant shall liaise directly with the relevant service utility authorities to organise for the wires/cables to be relocated. All wires cables must be relocated underground to the satisfaction of the relevant service utility authority prior to the issuing of an occupation certificate for the development.
72. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.

Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Notice must be issued to the Principal Certifying Authority prior to the construction certificate being issued.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development.

The following conditions are applied to provide adequate provisions for drainage and associated infrastructure:

73. The floor level of all habitable and storage areas with frontage to Anzac Parade, (and/or entry/exit points on Anzac Parade), must be at a minimum of

200mm above the level of the existing footpath in Anzac Parade, (at the property alignment), at all points along the Anzac Parade frontage, (or suitably waterproofed up to this same level). The Construction Certificate plans must demonstrate compliance with this requirement. The applicant must contact Council's Development Engineer Coordinator to discuss this requirement prior to lodging the Construction Certificate Application.

74. All structural walls on the ground floor level shall be designed to structurally withstand hydrostatic pressure/stormwater inundation from floodwater during the probable maximum flood (PMF) event as defined in the Floodplain Development Manual (New South Wales Government, April 2005). Structural Engineering certification confirming that this condition has been complied with shall be submitted to the certifying authority prior to the issuing of a construction certificate.

It is noted that this requirement does not necessitate the development being flood proof/water tight up to the PMF event, rather the requirement is to ensure that the development will not be structurally damaged in manner that could endanger lives during the PMF event.

75. Stormwater drainage plans have not been approved as part of this development consent. Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage shall be submitted to and approved by the certifying authority prior to a construction certificate being issued for the development. A copy of the engineering calculations and plans are to be forwarded to Council, prior to a construction certificate being issued, if the Council is not the certifying authority. The drawings and details shall include the following information:

- a) A detailed drainage design supported by a catchment area plan, at a scale of 1:100 or as considered acceptable to the Council or an accredited certifier, and drainage calculations prepared in accordance with the Institution of Engineers publication, Australian Rainfall and Run-off, 1987 edition.
- b) A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connection into Council's stormwater system.
- c) Generally all internal pipelines must be capable of discharging a 1 in 20 year storm flow. However the minimum pipe size for pipes that accept stormwater from a surface inlet pit must be 150mm diameter. The site must be graded to direct any surplus run-off (ie. above the 1 in 20 year storm) to the proposed drainage system.
- d) The separate catchment areas within the site, draining to each collection point or surface pit are to be classified into the following categories:
 - i. Roof areas
 - ii. Paved areas
 - iii. Grassed areas
 - iv. Garden areas
- e) Where buildings abut higher buildings and their roofs are "flushed in" to the higher wall, the area contributing must be taken as: the projected roof area of the lower building, plus one half of the area of the vertical

wall abutting, for the purpose of determining the discharge from the lower roof.

- f) Proposed finished surface levels and grades of car parks, internal driveways and access aisles which are to be related to Council's design alignment levels.
 - g) The details of any special features that will affect the drainage design eg. the nature of the soil in the site and/or the presence of rock etc.
76. All stormwater run-off naturally draining to the site must be collected and discharged through this property's stormwater system. Such drainage must, if necessary, be constructed prior to the commencement of building work.
77. All site stormwater must be discharged (by gravity) to the underground drainage system in Anzac Parade via a new and/or existing kerb inlet pit.

Notes:

- a. All new kerb inlet pits shall be constructed in general accordance with Council's standard drawing SD7a.
 - b. With the exception of the site discharge pipe, all new pipelines constructed within council's road reserve shall be minimum 375 mm diameter, spigot and socket rubber ringed jointed, steel reinforced concrete pipeline (RRRCP). Prior to backfilling, all pipelines in council's road reserve shall be inspected and approved by the Hydraulic Engineer certifying the works and Council.
78. On-site detention must be provided to ensure that the maximum discharge from the above site is not to exceed that which would occur during a 1 in 5 year storm of 1 hour duration for the existing site conditions. All other stormwater run-off from the above site for all storms up to the 1 in 20 year storm is to be retained on the site for gradual release to the kerb and gutter or drainage system as required by Council. Provision is to be made for satisfactory overland flow should a storm in excess of the above parameters occur.

Should no formal overland escape route be provided for storms greater than the design storm, the on-site detention system shall be sized for the 1 in 100 year storm event.

For small areas up to 0.5 hectares, determination of the required cumulative storage must be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Run-off Volume 1, 1987 Edition.

Where possible the detention tank must have an open base to infiltrate stormwater to the groundwater. Note that the ground water and any rock stratum have to be a minimum of 2.0 metres below the base of the tank.

79. The post development stormwater discharge into the drainage system in Anzac Parade must not exceed the predevelopment discharge. The applicant must contact Council's Development Engineer Coordinator to discuss this RTA' requirement prior to undertaking the stormwater drainage design for the development site.
80. Should stormwater be discharged to an infiltration system, the infiltration area

shall be sized for all storm events up to the 1 in 20 year storm event with provision for a formal overland flow path to Council's Street drainage system.

Should no formal overland escape route be provided for storms greater than the design storm, the infiltration system shall be sized for the 1 in 100 year storm event.

81. Any Infiltration systems/Absorption Trenches must be designed in accordance with "Section 8.5 ABSORPTION TRENCHES" as stipulated in Randwick City Council's Private Stormwater Code.
82. The detention area/infiltration system must be regularly cleaned and maintained to ensure it functions as required by the design.
83. Any onsite detention/infiltration systems shall be located in areas accessible by residents of all units.
84. The maximum depth of ponding in above ground detention areas (and/or infiltration systems with above ground storage) shall be as follows:
 - a) 300mm in landscaped areas (where child proof fencing is not provided around the outside of the detention area and sides slopes are steeper than 1 in 10)
 - b) 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10.
 - c) 1200mm in landscaped areas where a childproof fence is provided around the outside of the detention area

Notes:

- It is noted that above ground storage will not be permitted in basement car parks or in any area which may be used for storage of goods.
 - Mulch/bark must not be used in onsite detention areas
85. Any above ground stormwater detention areas (and/or infiltration systems with above ground storage) must be suitably signposted where required, warning people of the maximum flood level.
 86. The floor level of all habitable and storage areas adjacent to the detention area (and/or infiltration systems with above ground storage) must be a minimum of 300mm above the maximum water level in the detention area for the design storm or alternately a permanent 300mm high water proof barrier is to be constructed.

(In this regard, it must be noted that this condition must not result in any increase in the heights or levels of the building. Any variations to the heights or levels of the building will require a new or amended development consent from the Council prior to a construction certificate being issued for the development).
 87. A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
 88. A reflux valve shall be provided (within the site) over any pipelines

discharging from the site into the underground drainage system to ensure that stormwater from Council drainage system does not surcharge back into the site stormwater system.

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

The pump system must also be designed and installed strictly in accordance with "Section 8.4 PUMP SYSTEMS" as stipulated in Randwick City Council's Private Stormwater Code.

90. A sediment/silt arrester pit must be provided:-

- a) within the site at or near the street boundary prior to the site stormwater discharging by gravity to the kerb/street drainage system; and

The sediment/silt arrester pit shall be constructed in accordance with the following requirements:-

- The base of the pit located a minimum 300mm under the invert level of the outlet pipe.
- The pit constructed from cast in-situ concrete, precast concrete or double brick.
- 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/s (Mascot GMS multipurpose filter screen or equivalent).
- The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system.
- A child proof and corrosion resistant fastening system provided for the access grate (e.g. spring loaded j-bolts or similar).
- A sign adjacent to the pit stating:

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

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

91. Prior to occupation of the development, 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 system is maintained and that no works which could affect the design function of the detention/infiltration 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. If new linen plans are being prepared for the site, the plans shall indicate the location and dimensions of the detention/infiltration areas.
- c. 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.

92. Three covered car washing bays shall be provided for this development.

- a) The car washing bays must be drained to sewer to the requirements of Sydney Water and proof of compliance is to be submitted to the certifying authority, prior to an occupation certificate being issued for the proposed development.
- b) The car washing bays must be located outside any required/approved stormwater detention system.
- c) The car washing bays may be located within the visitor parking spaces provided they are signposted with 'Exclusive Carwash Bay Use Sat 2:00pm – 5:00pm and Sunday 10:00am – 2:00pm, Visitor parking at other times'
- d) The car washing bays must be constructed with a minimum 20mm bund around the perimeter of the car washing bay/s (or equivalent)
- e) A water tap shall be located adjacent to the car washing bay/s.

93. Prior to the issuing of an occupation certificate, the applicant shall submit to Council, a works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced Hydraulic Engineer. The works-as-executed drainage plan shall be to the satisfaction of the Principal Certifying Authority (PCA) and shall include the following details:

- The location of the detention basin with finished surface levels;
- Finished site contours at 0.2 metre intervals;
- Volume of storage available in the 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).

94. Prior to the issuing of an occupation certificate, 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 the conditions of 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.

95. **As the subject site may be present within a fluctuating water table,** the basement carpark or similar structures are to be suitably tanked and waterproofed. A Structural Engineer\Geotechnical Engineer shall certify the

tanking & waterproofing has been carried out to an acceptable standard, to the satisfaction of the certifying authority. A copy of the certification is to be forwarded to Council.

Notes:-

- a) Any subsoil drainage (from planter boxes etc) is to be disposed of within the site and is not to be discharged to Council's kerb & gutter and/or underground drainage system.
 - b) Adequate provision is to be made for the ground water to drain around the basement carpark (to ensure that the basement will not dam or slow the movement of the ground water through the development site).
96. As the subject site may be present within a fluctuating water table, a report must be submitted to and approved by the Certifying Authority or an accredited certifier, prior to issuing the Construction Certificate, detailing the proposed method of excavation and dewatering process. This report is to be prepared by suitably qualified and experienced Geotechnical, Hydrological and Structural Engineers and is to include but not limited to:
- The proposed method of shoring/piling and dewatering.
 - The zone of influence of any possible settlement.
 - The location of any proposed re-injection points in relation to the property boundaries (where re-injection equipment is to be located on land other than the subject premises, the written consent of the owner must also be provided to Council).
 - Monitoring of fluctuations of the water table during dewatering/construction to be undertaken by consulting engineers to ensure that the conditions of consent and other relevant requirements are satisfied.
 - The location of all proposed monitoring equipment in relation to the property boundaries (where monitoring equipment is to be located on land other than the subject premises, the written consent of the owner must also be provided to Council).
 - Details of any consultation and arrangements made with owners of any potentially affected nearby premises (ie in relation to access, monitoring and rectification of possible damage to other premises).
 - Details of groundwater quality and proposed disposal of any potentially contaminated groundwater in accordance with relevant requirements of the Department of Environment & Conservation, Council and the Protection of the Environment Operations Act 1997, in an environmentally sensitive manner.
 - The location of all pumping equipment in relation to the property boundaries.
 - The proposed method of noise attenuation for all pumping equipment, so as not to be more than 5dB (A) greater than the A – weighted L90 background sound pressure level between the hours of 7am to 10pm within any residential premises and not to be audible at all between the hours of 10pm and 7am within any residential dwelling.
 - Confirmation that the proposed methods of dewatering and excavation are appropriate and in accordance with 'best practice' principles and should not result in any unacceptable levels of settlement or damage of the adjoining or nearby buildings within the zone of influence.

The dewatering process must be monitored by the consulting Engineer/s to the satisfaction of the principal certifying authority and documentary evidence

of compliance with the relevant conditions of consent and dewatering requirements must be provided to the principal certifying authority and the Council.

The site conditions and fluctuations in the water table are to be reviewed by the consulting Engineer prior to and during the excavation/construction process, to ensure the suitability of the excavation and dewatering process and compliance with Council's conditions of consent.

97. If any temporary dewatering of the site is required to facilitate construction of any part of the lower basement carpark a licence under Part V of the Water Act 1912 will be required. The licence must be obtained from the NSW Department of Water and Energy prior to installation of the works. A copy of the license agreement must be forwarded to Council prior to any dewatering being undertaken.

The following conditions are applied to provide adequate provisions for waste management:

98. The residential garbage room area on the ground floor must be designed to contain a minimum of 30 x 240 litre bins (15 garbage bins & 15 recycle bins) whilst providing satisfactory access to these bins. Details showing compliance with this requirement are to be shown on the plans submitted to the certifying authority for the construction certificate.
99. The waste storage areas are to be provided with a tap and hose and the floor is to be graded and drained to the sewer to the requirements of Sydney Water.
100. The waste storage areas shall be clearly signposted.
101. Prior to the issuing of a construction certificate for the proposed development the applicant is to submit to Council and approved by Council's Manager of Waste Services, a Waste Management Plan detailing waste and recycling storage and disposal for the development site. The plan shall detail the type and quantity of waste to be generated by the development; demolition waste; construction waste; materials to be re-used or recycled; facilities/procedures for the storage, collection recycling & disposal of waste and the on-going management of waste.

The on-going management of waste shall be in general compliance with the waste management plan submitted with the development application (plan dated October 2007 and received by Council 24/10/07), however, as a minimum, the following additional details must be provided:

- Details of the proposed method for transferring residential waste bins from the lift area on the basement one level to the proposed residential garbage recycling room on the ground floor, (in particular the proposed method for transferring bins up the steep ramp connecting the basement one level and the ground floor).
- Details of the proposed method for transferring residential waste bins from the proposed residential garbage recycling room on the ground floor to the loading bay. In particular the Waste Management Plan must identify the designated short term holding area for these bins prior to collection.

The following conditions are applied to provide adequate provisions for landscaping and to maintain reasonable levels of environmental amenity:

102. The Landscape Plans by Michael Siu Landscape Architects Pty Ltd, sheets 1-2, drawing numbers L01/2-R12513 & L02/2-R12514, dated 18th October 2007, shall be amended to include the following requirements, which shall be submitted to, and be approved by, the Principal Certifying Authority (PCA), prior to the issue of a construction certificate, with a copy of the approved plan to be forwarded to Council if Council is not engaged as the PCA for the site:
- a. Size and location of the two existing street trees on the Anzac Parade frontage, shown as being retained.
 - b. Selection of a wider variety of tree species within the raised planter proposed along the northern edge of the second floor, in order to facilitate reasonable levels of solar access to these areas of private open space.
 - c. The awning proposed along the Anzac Parade frontage shall be amended to show a clearance of 2.50 metres from the outside edge of the trunks of both street trees in this area.
 - d. Additional notation showing soil and mulch details, irrigation details, edging, paving, fencing details, surface finishes, retaining wall details, and any other landscape elements in sufficient detail to fully describe the proposed landscape works.
 - e. To ensure satisfactory maintenance of the landscaped areas, an automatic drip irrigation system shall be installed throughout all planted areas, with the applicant required to demonstrate that the system will be connected to the site's rainwater tanks, with back-up connection to the mains supply, to all current Sydney Water requirements.
 - f. Any substation required shall be suitably screened from view, with the proposed location, elevation and screening method to be shown.
 - g. All detention tanks and below ground stormwater infiltration systems located within the landscaped areas shall have a minimum soil cover of 600mm to ensure sufficient soil depth for the establishment of landscaping.
103. Documentary evidence is to be obtained from a qualified Landscape Architect, and submitted to the Principal Certifying Authority (PCA), and Council, if Council is not the PCA, prior to the issue of a final occupation certificate, which confirms that the landscaping has been completed in accordance with the approved plans and relevant conditions.
104. The applicant shall meet all costs associated with the upgrading of the Anzac Parade site frontage in accordance with Council's Urban Design Guidelines for the Kingsford Commercial Centre. All works carried out on Council property, shall be in accordance with Council's requirements for Civil Works on Council property.

A detailed streetscape plan for the Anzac Parade frontage showing proposed paving design, street furniture, grades, finished levels, extent and location of awnings, doors/entranceways, and any other relevant details required by

Council's Landscape Architect shall be submitted to, and be approved by, Council's Director of City Services, prior to the commencement of any civil works external to the site.

The applicant will be required to contact and liaise with Council's Project Coordinator on 9399-0934, prior to the preparation of the streetscape plans in order to obtain more detailed, site specific landscape design requirements from the relevant departments of Council.

Following approval of the streetscape plan, and prior to the commencement of these streetscape works, the applicant shall liaise with Council's Pre-paid Works Designer on 9399-0922, regarding scheduling of work including inspections, supervision fees and compliance with Council's requirements for public liability insurance.

The approved streetscape works shall be completed to the satisfaction of Council's Landscape Architect and Pre-paid Works Designer, prior to the issue of a final occupation certificate.

105. Approval is granted for the removal of the following trees in order to accommodate the proposed works as shown, subject to implementation of the approved landscape plan:
- a) Two *Syagrus romanzoffianum* (Cocos Palms) and one *Morus nigra* (Mulberry Tree) within the small raised planters against the front (western) edge of the existing building due to their insignificance and inappropriate location;
 - b) The row of three *Robinia pseudoacacia* 'Frisia' (Golden False Acacias) at the rear of the site, along the western edge of the existing carpark, adjacent to the right of way;
 - c) Another row of four *Robinia pseudoacacia* 'Frisia' (Golden False Acacia) along the eastern boundary, near the southeast corner of the site.
106. In order to ensure the retention of the two *Platanus x hybrida* (London Plane Trees) located within Council's Anzac Parade footpath, as well as the single *Platanus x hybrida* (London Plane Tree) located within the triangular shaped garden bed at the corner of Middle Street and Middle Lane in good health, the following measures are to be undertaken:
- a. All detailed architectural, building, demolition, engineering (structural, stormwater & drainage, services), and landscape documentation submitted for the construction certificate application shall show the retention of these specimens with the positions of their trunks and full diameter of their canopies clearly shown.
 - b. There is to be no storage of materials or machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble beneath the extent of the driplines of any of these trees.
 - c. The applicant is not authorised to perform any works to these trees. Should pruning or any other works appear necessary in order to avoid damage to these trees during the course of the works, the applicant shall contact Council's Landscape Development Officer on 9399-0613 to arrange a joint inspection to determine the appropriateness of any such request.

- d. The applicant shall comply with Council's instructions relating to these trees, with any works to be performed only by Council or Council's authorised agents, at the applicant's costs, with the amount specified to be paid into the Tree Amenity Income account no 4001.768401 at the Cashier on the Ground Floor of the Administrative Centre prior to the issue of a final occupation certificate.
- e. A refundable deposit in the form of cash, cheque or bank guarantee (with no expiry date) for an amount of \$6,480.00 shall be lodged with Council prior to issue of a construction certificate to ensure the preservation of the street trees in accordance with the requirements described in this condition.

QUANTITY	SPECIES	AMOUNT
Three	Platanus x hybrida (London Plane Trees)	\$6,480.00
	TOTAL	\$6,480.00

The refundable deposit will be eligible for release following issue of the final occupation certificate, pending a satisfactory inspection by Council's Landscape Development Officer, who can be contacted on 9399-0613.

Any contravention of Council's conditions relating to these street trees throughout the course of the works may result in Council claiming all or part of the lodged security.

The following conditions are applied to ensure that the development satisfies relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

107. 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 are to 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.

Retaining walls, shoring, or piling must be designed and installed in accordance with appropriate professional standards and the relevant requirements of the Building Code of Australia and Australian Standards. Details of proposed retaining walls, shoring or piling are to be submitted to and approved by the Principal Certifying Authority for the development prior to commencing such excavations or works.

108. The adjoining land and buildings located upon the adjoining land must be adequately supported at all times.

If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of any building located on an adjoining allotment of land, the person causing the excavation must:

- preserve and protect the building /s on the adjoining land from damage; and
- effectively support the excavation and building; and
- at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land (including a public road or public place), give notice of the intention and particulars of the works to the owner of the adjoining land.

Notes

- *This consent and condition 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 principal contractor or owner-builder must obtain:*
 - a) *the consent of the owners of such adjoining or supported land to trespass or encroach, or*
 - b) *an access order under the Access to Neighbouring Land Act 2000, or*
 - c) *an easement under section 88K of the Conveyancing Act 1919, or*
 - d) *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).*

109. Except with the written approval of Council's Manager of Health, Building & Regulatory Services, all building, demolition and associated site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and (except as detailed below) between 8.00am to 5.00pm on Saturdays.

All building, demolition and associated site works are strictly prohibited on Sundays, Public Holidays and also on Saturdays adjacent to a Public Holiday.

In addition, the use of any rock excavation machinery or any mechanical pile drivers or the like is restricted to the hours of 8.00am to 5.00pm (maximum) on Monday to Friday only, to minimise the noise levels during construction and loss of amenity to nearby residents.

110. A report prepared by a suitably qualified and experienced consultant shall be submitted to the Principal Certifying Authority (PCA) and a copy is to be provided to Council upon commencement of works (or as may otherwise be specified by the PCA or Council), certifying that noise and vibration emissions from the construction of the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, Council's conditions of consent and relevant Standards relating to noise and vibration. In support of the above, it is necessary to submit all relevant readings and calculations made.

Any recommendations and requirements contained in the report are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to the PCA and Council.

111. A Registered Surveyor's check survey certificate or *compliance certificate* is to 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*), detailing compliance with Council's approval at the following stage/s of construction:

- a) Prior to construction of the first completed floor/floor slab (prior to pouring of concrete), showing the area of land, building and boundary setbacks and verifying that the building is being constructed at the approved levels.
- b) On completion of the erection of the building showing the area of the land, the position of the building and boundary setbacks and verifying the building has been constructed at the approved levels.

112. 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 provisions of the *Protection of the Environment Operations Act 1997* must be satisfied at all times.

Noise and vibration from any rock excavation machinery and pile drivers (or the like) must be minimised by using appropriate plant and equipment and silencers and a construction noise and vibration minimisation strategy, prepared by a suitably qualified consultant is to be implemented during the works, to the satisfaction of the Principal Certifying Authority

113. 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) The roadway, footpath and nature strip must be maintained in a good, safe condition and free from any obstructions, materials, soils or debris at all times. Any damage caused to the road, footway or nature strip must be repaired immediately, to the satisfaction of Council.
- b) Building materials, sand, soil, waste materials, construction equipment or other materials or articles must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.
- c) Bulk bins, waste containers or other articles must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container or other articles in a public place can be made to Council's Health, Building & Regulatory Services department.
- d) 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.

- e) A temporary timber, asphalt or concrete crossing is to be provided to the site entrance across the kerb and footway area, with splayed edges, to the satisfaction of Council, unless access is via an existing concrete crossover.
- f) The applicant/builder is required to hold Public Liability Insurance, with a minimum liability of \$10 million and a copy of the Insurance cover is to be provided to Council.
- g) A local approval application must be submitted to and be approved by Council's Building Services section prior to commencing any of the following activities upon any part of the footpath, road or 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 in a public place.

114. **A Construction Site Management Plan** is to be developed and implemented **prior to the commencement** of demolition, excavation or building works. The 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;
- construction noise and vibration management;
- construction traffic management provisions.

The site management measures are to be implemented prior to the commencement of any site works and be maintained throughout the works, to maintain reasonable levels of public health, safety and convenience, to the satisfaction of Council. A copy of the approved Construction Site Management Plan must be maintained on site and be made available to Council officers upon request.

115. 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.
- Revegetation of disturbed areas.

116. During construction stages, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban Stormwater – Soils and Construction, published by the NSW Department of Housing.

Details of the proposed sediment control measures are to be detailed in the *Site Management Plan* and must be submitted to and approved by the principal certifying authority **prior to the commencement of any site works**. The sediment and erosion control measures must be implemented prior to the commencement of any site works and be maintained throughout construction. A copy of the approved details must be forwarded to the Council and a copy is to be maintained on-site and be made available to Council officers upon request.

Details of proposed sediment and erosion control measures shall include: a site plan indicating the slope of land, access points & access control measures, location and type of sediment & erosion controls, location of existing vegetation to be retained, location of material stockpiles and storage areas, location of building operations and equipment, methods of sediment control, details of drainage systems and details of existing and proposed vegetation.

Stockpiles of soil, sand, aggregate or other materials must not be located on any footpath, roadway, nature strip, drainage line or any public place and the stockpiles must be protected with adequate sediment control measures.

Building operations such as brick cutting, washing tools or equipment and mixing mortar are not permitted on public footpaths, roadways, nature strips, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system.

A warning sign for soil and water management must be displayed in a prominent position on the building site, visible to both the public and site workers. The sign must be displayed throughout the construction period. Copies of a suitable warning sign are available at Council's Customer Service Centre for a nominal fee.

117. Public safety must be maintained at all times and public access to the site and building works, materials and equipment on the site is to be restricted.

A temporary safety fence is to be provided to protect the public, located to the perimeter of the site. Temporary fences are to have a minimum height of 1.8

metres and be constructed of cyclone wire fencing, with geotextile fabric attached to the inside of the fence to provide dust control, or other material approved by Council.

If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or the building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected sufficiently to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises.

The public place adjacent to the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place and any such hoarding, fence or awning is to be removed upon completion of the work.

Temporary fences and hoardings are to be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

The public safety provisions and temporary fences must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

If it is proposed to locate any site fencing, hoardings or amenities upon any part of the footpath, nature strip or any public place, the written consent from Council's Building Services section must be obtained beforehand and detailed plans are to be submitted to Council for consideration, together with payment of the weekly charge in accordance with Council's adopted fees and charges.

118. Except where otherwise provided in this consent, a 'B Class' overhead type hoarding is to be provided to protect the public, located adjacent to the development, prior to the commencement of any works on the site which comprise:-

- any works or hoisting of materials over a public footway or adjoining premises, or
- any building or demolition works on buildings which are over 7.5m in height and located within 3.6 metres of the street alignment.

The public safety provisions and temporary fences must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

If it is proposed to locate any hoardings, site fencing or amenities upon a footpath or public place, the written consent from Council's Building Services section must be obtained beforehand and detailed plans are to be submitted to Council for consideration, together with payment of the weekly charge in accordance with Council's adopted fees and charges.

119. The demolition, removal, storage, handling and disposal of materials and all building work must be carried out in accordance with the following requirements (as applicable):

- Australian Standard 2601 (2001) – Demolition of Structures

- Occupational Health and Safety Act 2000
- Occupational Health and Safety (Hazardous Substances) Regulation 2001
- Occupational Health and Safety (Asbestos Removal Work) Regulation 2001
- WorkCover NSW – Guidelines and Codes of Practice
- Randwick City Council's Asbestos Policy
- The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 1996.

120. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures.

The Work Plan must include the following information (as applicable):

- The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor
- Details of hazardous materials, including asbestos
- Method/s of demolition and removal of asbestos
- Measures and processes to be implemented to ensure the health & safety of workers and community
- Measures to be implemented to minimise any airborne asbestos and dust
- Methods and location of disposal of any asbestos or other hazardous materials
- Other relevant details, measures and requirements to be implemented as identified in the Asbestos Survey
- Date the demolition and removal of asbestos will commence

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

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

- a) Randwick City Council's Asbestos Policy (adopted 13 September 2005).

A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.

- b) A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 50 m² 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.
- c) On sites involving the removal of asbestos, a professionally manufactured 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. The sign shall measure not less than 400mm x 300mm and the sign is to be installed prior to demolition work commencing and is to

remain in place until such time as all asbestos has been safely removed from the site.

- d) 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 1996. Asbestos waste must be disposed of at an approved waste disposal depot (refer to the DEC or Waste Service NSW for details of sites). Copies of all receipts detailing method and location of disposal must be maintained on site and be provided to Council officers upon request, as evidence of correct disposal.
- e) A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos removal contractor, building consultant, architect or experienced licensed building contractor), must be provided to Council upon completion of the works **prior to an Occupation Certificate being issued**, which confirms that the asbestos material have been removed appropriately and the relevant requirements contained in the Asbestos Survey and conditions of consent in relation to the safe removal and disposal of asbestos, have been satisfied.

The following conditions are applied to provide access and facilities for people with disabilities:

- 122. Access, facilities and car parking for people with disabilities must be provided to and within the building in accordance with the relevant provisions of the Building Code of Australia and AS1428.1, AS4299 & AS2890.1 and relevant Council development control plans for the subject development, to the satisfaction of the Certifying Authority. Details of the proposed access, facilities and car parking for people with disabilities are to be included in the plans / specifications for the **construction certificate**.

The following conditions are applied to maintain reasonable levels of environmental amenity and public health safety:

- 123. Site remediation must be carried out in accordance with the following general requirements (as applicable):
 - a) Remediation works shall be carried out in accordance with the requirements of the Contaminated Land Management Act 1997, environmental planning instruments applying to the site, guidelines made or approved by the NSW Department of Environment and Climate Change (formerly EPA) and the NSW Department of Planning, Randwick City Council's Contaminated Land Policy 1999 and the Protection of the Environment Operations Act 1997.
 - b) The remediation of the site including ground water must fully comply with all relevant Commonwealth and State Legislation, Regulations and Standards.
 - c) Any variations to the proposed remediation works or remediation action plan shall be approved by the environmental consultant and a written statement is to be provided to the Council by the independent environmental consultant prior to the commencement of such works, which confirms their approval of the amended remediation action plan / works.

- d) The Environmental Consultant, in their assessment of appropriate soil investigation levels, must take into account all environmental concerns (for example, the potential effects on wildlife) and the protection of ground and surface water.
- e) Should any underground tanks be discovered they shall be removed in accordance with relevant NSW Department of Environment and Climate Change / EPA Guidelines; Australian Institute of Petroleum's (AIP) Code of Practice for the Design, Installation and Operation of Underground Petroleum Storage Systems (CP4-1998); and WorkCover NSW requirements. In the event of conflict between AIP Code of Practice and WorkCover requirements the latter shall prevail.
- f) Any odours from excavated materials shall be mitigated by the use of an odour suppressant, such as Biosolve, and shall not give rise to an offensive odour as defined in the Protection of the Environment Operations Act 1997. Stockpiles shall also be covered and dampened down to reduce odour and dust impacts.

On-site land farming of contaminated soil is not permitted, except with the written approval of Council's Manager of Health, Building & Regulatory Services.

- g) Any fill importation to the site is to be monitored and classified by the Environmental Consultant appointed for remediation of the site or a person with his qualifications. Only 'Virgin Excavated Natural Material' (VENM) is to be imported to the site, as defined within the NSW EPA 'Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes. 1999'.
- h) A Site Remediation Management Plan must be prepared prior to the commencement of remediation works by a suitably qualified environmental consultant and be implemented throughout the remediation works. A copy is to be forwarded to Council. The Site Remediation Management Plan shall include measures to address the following matters:
 - general site management, site security, barriers, traffic management and signage
 - hazard identification and control
 - worker health & safety, work zones and decontamination procedures
 - cross contamination
 - site drainage and dewatering
 - air and water quality monitoring
 - disposal of hazardous wastes
 - contingency plans and incident reporting
 - details of provisions for monitoring implementation of remediation works and persons/consultants responsible
- i) All trucks and service vehicles leaving the site shall go through a suitably constructed on site truck wash down area, to ensure no tracking of material occurs from the site onto roads adjoining the site. Details are to be submitted to Council in the Site Management Plan.

- j) Prior to the commencement and throughout the duration of the remediation and construction works, adequate sediment and stormwater control measures shall be in place and maintained on site at all times. Sediment laden stormwater shall be controlled using measures outlined in the manual 'Managing Urban Stormwater: Soils and Construction' produced by the NSW Department of Housing.
 - k) Remediation work shall be conducted within the following hours:
Monday – Friday 7am – 5pm
Saturday 8am – 5pm
No work permitted on Sundays or Public Holidays
 - l) A sign displaying the contact details of the remediation contractor (and the site manager if different to remediation contractor) shall be displayed on the site adjacent to the site access. This sign shall be displayed throughout the duration of the remediation works.
 - m) Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council and the Principal Certifying Authority immediately.
124. A Validation Report shall be prepared by a suitably qualified Environmental Consultant and be submitted to Council upon completion of the remedial works, and prior to commencing any building works. The Validation report shall be prepared in accordance with relevant NSW Department of Environment and Conservation guidelines, including the guideline "Consultants Reporting on Contaminated Sites", and shall include:
- Description and documentation of all works performed.
 - Results of validation testing and monitoring.
 - Validation results of any imported fill onto the site.
 - Demonstrate how all agreed clean-up criteria and relevant regulations have been satisfied.
 - Confirmation and justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants
125. A Site (Demolition) Management Plan must be developed by a suitably qualified environmental consultant, prior to commencing site works, to ensure that contaminants do not result in a public nuisance or affect the health and safety of the community and satisfy the relevant conditions of development consent.

The Site (Demolition) Management Plan is to be reviewed and acceptable to the Site Auditor and a copy of the plan and the Site Auditors concurrence is to be forwarded to Council.

Implementation of the Site (Demolition) Management Plan must be monitored by a suitably qualified environmental consultant and a copy of the monitoring program and results are to be forwarded to Council.

Site (Demolition) Management Plan shall include (but need not be limited to) the following measures:

- general site management, site security, barriers, traffic management and signage
- hazard identification and control

- worker health & safety, work zones and decontamination procedures
- prevention of cross contamination
- site drainage and dewatering
- air and water quality monitoring
- disposal of hazardous wastes
- contingency plans and incident reporting, and
- details of provisions for monitoring implementation of remediation works including details of the person/consultant responsible.

126. The applicant is to engage the services of a suitably qualified environmental consultant to respond to enquiries and complaints made by the community or Council in relation to contamination, remediation and construction site management matters.

A specific contact number is to be made available for such enquiries and complaints (including an after-hours emergency contract number) and a complaints register is to be maintained to record all such enquiries, complaints and actions taken in response to same, which is to be made available to Council officers upon request.

127. Hazardous or intractable wastes arising from the demolition process being removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment and Climate Change, and with the provisions of:

- *New South Wales Occupational Health and Safety Act, 2000;*
- *The Occupational Health and Safety (Hazardous Substances) Regulation 2001;*
- *The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;*
- *Protection of the Environment Operations Act 1997 (NSW) and*
- *Environment Protection Authority's Environmental Guidelines; Assessment, Classification and Management of Liquid and Non Liquid Wastes (1999).*

128. The works shall not give rise to environmental pollution or public nuisance or, result in an offence under the Protection of the Environment Operations Act 1997 or NSW Occupational Health & Safety Act (2000) & Regulations (2001).

The following conditions have been applied to ensure that noise emissions from the development satisfy legislative requirements and maintain reasonable levels of amenity to the area:

129. The proposed use of the premises and the operation of all 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 premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background (L_{A90}), 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as an $L_{Aeq, 15 \text{ min}}$ and adjusted in accordance with the NSW Environmental Protection Authority's Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).

130. The L_{10} noise level emitted from the licensed premises shall not exceed the background noise level (L_{90}) in any Octave Band Centre Frequency (31.5Hz –

8kHz inclusive) by more than 5dB between 7.00am and 12.00 midnight at the boundary of any affected residence. The background noise level shall be measured in the absence of noise emitted from the licensed premises.

The L_{A10} noise level emitted from the licensed premises shall not exceed the background noise level (L_{A90}) in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) between 12.00 midnight and 7.00am at the boundary of any affected residence. The background noise level shall be measured in the absence of noise emitted from the licensed premises.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12.00 midnight and 7.00am.

131. The licensee must establish and maintain a formal and documented system for the recording and resolution of complaints made to the licensed premises by residents. All complaints are to be attended to in a courteous and efficient manner and referred promptly to the licensee or duty manager. The appropriate remedial action, where possible, is to be implemented immediately and the licensee or duty manager is to contact the complainant within 48 hours to confirm details of action taken.

Upon reasonable prior notice, the licensee must make available the incident book to the police and Council officers.

132. The use of the premises and the operation of all plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises.
133. The acoustic report titled "Castellorizian Club Redevelopment, 440-448 Anzac Parade Kingsford, Environmental Noise Impact Assessment, dated 1 November 2007, Report reference 2007499/2607A/R5/SL" and the recommendations contained within form part of this consent and are to be complied with.
134. A report/correspondence prepared by a suitably qualified and experienced consultant in acoustics shall be submitted to Council **prior to a construction certificate being issued for the development**, which demonstrates that noise and vibration emissions from the development will comply with the relevant provisions of the *Protection of the Environment Operations Act 1997*, Environmental Protection Authority Noise Control Manual & Industrial Noise Policy and relevant conditions of approval.
135. A report, prepared by a suitably qualified and experienced consultant in acoustics, shall be submitted to the Council **prior to any occupation certificate** being issued for the development, which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environmental Protection Authority Noise Control Manual & Industrial Noise Policy and conditions of Council's approval, to the satisfaction of Council's Manager Environmental Health & Building Services.
136. The use of the outdoor terrace to the club area is restricted to between the hours of:-

Monday to Sunday from 7.00 am to 12.00 midnight. In this regard, the outdoor terrace shall be vacated prior to midnight.

137. There shall be no amplified loudspeakers to be used on any outdoor balcony.
138. No delivery, garbage collection, loading and unloading activities associated with the club premises are to take place between the hours of 10pm and 6am on any day.

The following conditions are applied to satisfy the relevant pollution control criteria and to maintain reasonable levels of health, safety and amenity to the locality:

139. A separate development application is required to be submitted to and approved by Council for the use of the premises as a Place of Public Entertainment prior to commencing any public entertainment. The plans accompanying the application must identify the location of the public entertainment areas (in colour), location of exit stairways, exit doors, dimensions of exits, floor areas, seating/table arrangements, stage areas and location of each of the essential fire safety measures. The application must also indicate the type of entertainment to be provided, days of public entertainment (e.g. Fridays & Saturdays), the maximum number of proposed patrons and the number of staff.
140. The use and operation of the premises shall not give rise to an environmental health or public nuisance and 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*.

The following conditions are applied to ensure compliance with the Food Act 2003 and to ensure public health and safety:

141. The club premises is to be designed, constructed and operated in accordance with the Food Act 2003, Food Regulation 2004, Australia & New Zealand Food Standards Code and Australian Standard AS 4674-2004, Design, construction and fit-out of food premises and details of compliance are to be included in the documentation for the **construction certificate** to the satisfaction of the certifying authority.
142. Food safety practices and operation of the food premises must be in accordance with the Food Act 2003, Food Regulation 2004, Food Standards Code and Food Safety Standards at all times, including the requirements and provisions relating to:
 - Food handling – skills, knowledge and controls.
 - Health and hygiene requirements.
 - Requirements for food handlers and businesses.
 - Cleaning, sanitising and maintenance.
 - Design and construction of food premises, fixtures, fitting and equipment.

Failure to comply with the relevant food safety requirements is an offence and may result in legal proceedings, service of notices and/or the issuing of on-the-spot penalty infringement notices.

143. The food premises must be registered with Council's Environmental Health section and the NSW Food Authority must also be notified of the food business in accordance with the Food Safety Standards, **prior to commencement of food business operations.**

144. Upon completion of the work and **prior to the issuing of an occupation certificate**, the premises must be inspected by Council's Environmental Health Officer to ascertain compliance with relevant Food Safety Standards and the written approval of Council (being the relevant Food Authority for this food business) must be obtained prior to the operation of the food business.
145. The Proprietor of the food business and all staff carrying out food handling and food storage activities must have appropriate skills and knowledge in food safety and food hygiene matters, as required by the Food Safety Standards.
146. The design and construction of food premises must comply with the following requirements, as applicable:-
- The floors of kitchens, food preparation areas and the like are to be constructed of materials which are impervious, non slip and non abrasive. The floor is to be finished to a smooth even surface, graded and drained to a floor waste connected to the sewer.
 - The intersection of walls with floor and plinths is to be coved, to facilitate cleaning.
 - Walls of the kitchen preparation areas and the like are to be of suitable construction finished in a light colour with glazed tiles, stainless steel, laminated plastics or similar approved material adhered directly to the wall adjacent to cooking and food preparation facilities or areas, to provide a smooth even surface.
The glazed tiling or other approved material is to extend up to the underside of any mechanical exhaust ventilation hoods and a minimum of 450mm above bench tops or other facilities and equipment.
 - Walls where not tiled are to be cement rendered or be of rigid smooth faced non-absorbent material (i.e. fibrous cement sheeting, plasterboard or other approved material) and finished to a smooth even surface, painted with a washable paint of a light colour or sealed with other approved materials.
 - The ceilings of kitchens, food preparation areas, storerooms and the like are to be of rigid smooth-faced, non absorbent material i.e., fibrous plaster, plasterboard, fibre cement sheet, cement render or other approved material.
 - All stoves, refrigerators, bain-maries, stock pots, washing machines, hot water heaters, large scales, food mixers, food warmers, cupboards, counters, bars etc.... to be supported on wheels, concrete plinths a minimum 75mm in height, metal legs minimum 150mm in height, brackets or approved metal framework or the like.
 - Cupboards, cabinets, benches and shelving may be glass, metal, plastic, timber sheeting or other approved material. The use of particleboard or similar material is not permitted unless laminated on all surfaces.
 - Adequate fly screens and doors with self-closing devices, (where applicable), are to be provided to all external door and window openings. An electronic insect control device must also be provided within the food premises.

- Garbage storage enclosures are to be fitted with a hose cock and the floor is to be graded and drained to an approved floor waste connected to the sewer.
 - A mechanical ventilation exhaust system hood is to be installed where cooking or heating processes are carried out in the kitchen or in food preparation areas, in accordance with the relevant requirements of Clause F4.12 of the BCA and Australian Standard AS 1668 Parts 1 & 2.
 - Wash hand basins must be provided in convenient positions, with hot and cold water, together with a sufficient supply of soap and clean towels. Such hot and cold water shall be supplied to the wash hand basins through an approved mixing device.
 - Ceramic tiles being provided to a height of 450mm above bench tops, wash hand basins and similar fittings.
 - A numerically scaled indicating thermometer or recording thermometer, accurate to the nearest degree Celsius being provided to refrigerators, cool rooms, other cooling appliances and bain-maries or other heated food storage/display appliances. The thermometer is to be located so as to be read easily from the outside of the appliance.
 - All food that is to be kept hot should be heated within one (1) hour from the time when it was prepared or was last kept cold, to a temperature of not less than 60°C and keep this food hot at or above the temperature. Food that is to be kept cold should be cooled, within four (4) hours from the time when it was prepared or was last kept hot, to a temperature of not more than 5°C and keep this food cold at or below that temperature.
147. Details of proposed mechanical ventilation systems, detailing compliance with the relevant requirements of Clause F4.12 of the BCA and Australian Standard AS 1668 Parts 1 & 2 (including exhaust air quantities and discharge location points) are to be submitted to and approved by the Certifying Authority with the construction certificate and a copy of relevant documentation is to be provided to Council.
148. Liquid trade waste materials are to be disposed of in accordance with the requirements of the Sydney Water, Trade Waste Department and details of compliance are to be submitted to the certifying authority **prior to the commencement of works.**
149. Trade/commercial waste materials must not be disposed via council's domestic garbage service. All trade/commercial waste materials must be collected by Council's Trade Waste Service or a waste contractor authorised by the Waste Service of New South Wales and details of the proposed waste collection and disposal service are to be submitted to Council prior to occupation of the building.

The following conditions are applied to satisfy the requirements of the Roads and Traffic Authority (RTA) under the Roads Act 1993:

150. The balcony structure is to be setback a minimum of 600mm from the kerb of Anzac Parade to guard against the overhang of vehicles. The Construction Certificate application must demonstrate compliance with this requirement.

151. The minimum head height of the balcony structure is to be 2.7 metres above the existing footpath level. The Construction Certificate application must demonstrate compliance with this requirement.
152. Driver sight lines to traffic signals and road signs are not to be hindered by the balcony structure.
153. A qualified structural engineer should certify that the balcony structure is self supporting. Such certification must be provided prior to the issuing of a Construction Certificate. Upon completion of the construction of the balcony, certification of the structural adequacy of the balcony must be provided to the Council.
154. The Applicant should provide proof of current liability and indemnity insurance to \$20 million to the Council, prior to the issuing of a construction certificate. The insurant is to be extended to include the RTA being indemnified against any action that could result in litigation following any accident involving an errant motor vehicle colliding with the structure.
155. Any traffic control during construction must be carried out by accredited RTA approved traffic controllers.
156. All vehicles are to enter and exit the site in a forward direction both during construction and in completion (with the exception of vehicles using the proposed loading bays).
157. All loading and unloading activities must be carried out within the property.
158. Any works associated with this development shall be at no cost to the RTA.

The following condition is applied to meet additional demands for public facilities:

159. In accordance with Council's Section 94A Development Contributions Plan effective from 2 July 2007, the following monetary levy must be paid to Council:

Category	Cost	Applicable Levy	S94A Levy
Development cost \$100,001 - \$200,000	-----	0.5%	-----
Development cost more than \$200,000	\$17,197,552.9	1.0%	\$171,975.5

The levy must be paid in cash, bank cheque or by credit card prior to

- a) a construction certificate being issued
- b) a subdivision 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.

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.

ADVISORY MATTERS:

1. The applicant is advised that the Construction Certificate plans and specification must comply with the provisions of the Building Code of Australia (BCA).

Details of compliance with the relevant provisions of the Building Code of Australia and conditions of development consent are to be provided in the plans and specifications for the construction certificate.

The applicant and developer are advised to ensure that the development is not inconsistent with Council's consent and if necessary consult with Council's Building Certification Services or your accredited certifier prior to submitting your construction certificate application to enable these matters to be addressed accordingly.

2. The applicant/owner is advised that this approval does not guarantee compliance with the provisions of the Disability Discrimination Act 1992 and the applicant should therefore consider their liability under the Act. In this regard, the applicant is advised that compliance with the requirements of the Building Code of Australia and Australian Standard 1428.1 - Design for Access and Mobility does not necessarily satisfy the objectives of the Disability Discrimination Act 1992.

The applicant/owner is requested to give consideration to providing access and facilities for people with disabilities in accordance with Australian Standard 1428 Parts 1, 2, 3 and 4 - Design for Access and Mobility, which may be necessary to satisfy the objectives of the Disability Discrimination Act 1992.

3. 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.

ATTACHMENT / S:

Nil

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SIMA TRUUVERT
DIRECTOR, CITY PLANNING

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SIMON IP
**SENIOR DEVELOPMENT
ASSESSMENT OFFICER**

Director, City Planning Report 105/2007



SUBJECT:	Randwick City Recreation Needs Study – Consideration of Draft Study

DATE:	13 November 2007	FILE NO:	F2006/00266

REPORT BY: DIRECTOR, CITY PLANNING

EXECUTIVE SUMMARY:

A draft Recreation Needs Study has been prepared for Randwick City Council by Stratcorp Consulting, in order to identify the open space and recreation needs of Randwick City and to assist Council in determining priorities for the improvement of open space resources and the provision of future active and passive recreation facilities. In summary, the draft Study:

- considers Council's current demographic characteristics and future population growth and the impact that these have on recreation provision;
- identifies current and likely trends in recreational activities and assesses how Council should respond to these trends;
- provides a summary of existing provision of open space including the hierarchical classification of parks and their uses;
- reviews the quality of open space including range of uses, shade and landscaping and maintenance standards; and
- reviews the existing provision of passive and active recreation facilities.

The draft Study is predicated on the Randwick City Plan outcomes, particularly the achievement of excellence in recreation and lifestyle opportunities. It identifies opportunities to enhance the quantity and quality of our City's open space and recreation facilities in order to encourage greater health, well-being and social development of our community through active and passive recreation. The draft Study notes that the demand for recreation facilities will increase with the modest local population growth and growth in surrounding areas, and with increasing participation in recreation, especially passive recreation such as walking and swimming, and active recreation such as soccer, netball, AFL and touch football/Oz tag.

From a regional perspective, the draft Study notes that Randwick City provides over 80% of the total open space available in the East-subregion, while comprising only 45% of the total area of the Sub-region. This demand is placing pressure on the use of the City's parks and reserves and on Council's resources to maintain them. There are limited opportunities to increase the quantum of open space and thus the draft study looks at strategies to increase the diversity, quality and accessibility of the existing open space.

Randwick City nevertheless offers a good range of parks and open spaces. The coastal reserves and coastal walkway provide high quality passive recreation opportunities, and there are numerous pocket parks and neighbourhood parks for local communities. There is a broad range of sporting facilities, however the condition of outdoor sports fields are generally average to poor, caused mainly by overuse. While growth in sporting demand is expected to continue, there is little capacity to absorb expected increases especially for winter field sports. The draft Study identifies some opportunities to expand the number of fields at existing locations including Pioneers Park, Heffron Park, Yarra Oval and the Women's Athletic field. It also identifies opportunities to expand capacity of existing fields, through lighting to provide for night training on a wider range of fields (reducing pressure on those currently used for training), and through landscaping and maintenance measures to improve field capacity.

The draft Study details consultation undertaken with the Randwick community and sporting groups during the preparation of the Study. The draft Study also includes a Strategy Implementation (Action) Plan to improve and develop recreation services in the Randwick City over the next 8-10 years, in line with the analysis.

This report provides a summary of the draft Recreation Needs Study and recommends that it now be placed on public exhibition for public comment.

BACKGROUND:

Council considered a report on the preparation of the Recreation Needs Study at its meeting of 26 September 2006 noting that Stratcorp Consultants was commissioned to undertake the Study.

The Recreation Needs Study establishes a framework for the management of all recreation and open space land including Council owned 'community' land and Crown land that is managed by Council. The Study provides information on the current provision of open space and recreation facilities in Randwick City, current and future anticipated demands on this open space and the required improvements to meet future demands. It is noted that the last comprehensive study of Council's open space and recreation areas was completed in 1996.

The Randwick City Plan (2006) notes the need for an open space study to analyse the current and future supply and demand issues for open space, and provide strategic approaches to the planning, delivery, maintenance and promotion of recreation and leisure opportunities in our City.

ISSUES:

Draft Recreation Needs Study

The draft Recreation Needs Study provides an analysis of the open space and recreation facilities (including location, description and condition) in Randwick City and considers the current and future demand. The Executive Summary provides an overview of the research and findings. A copy of the draft Recreation Needs Study is included as Attachment 1 of this report.

- The preparation of the Study included identification of key demand and supply factors including:
- analysis of the current and likely future demographic profile of Randwick City;
- review of current and future recreation trends and participation rates;

- review of existing and proposed provision of open space, recreation and sporting facilities; and
- community and stakeholder consultation.

Demand for Open Space

Demographics:

A review of the key demographic characteristics of Randwick City (Section 4 of the draft Study), when compared to the Sydney average, noted:

- a high young adult population (students), while overall a slightly older population profile;
- a slightly higher proportion of residents were born overseas; and
- a higher proportion of single people and fewer families with children.

Recreation participation and trends:

General sports participation trends (Section 5 of the draft Study) include:

- children and adult participation in sport is increasing;
- soccer, swimming and netball were the most popular organised sports for children;
- walking, aerobics/fitness and swimming were the most popular activities for adults;
- participation rate by adults in NSW increased by 5.7% between 2001 and 2005; and
- overall participation rates in organised sport and physical activities remain highest amongst young people and declines steadily with age.

A review of participation trends in recreation and sport (Section 5 of the draft Study) identified:

- increased awareness of the strong links between involvement in recreational activities and good health;
- demand by people for greater diversity of recreational activities;
- increased expectation for higher standards in facility provision and quality of programming, servicing and management;
- greater reliance on locally accessed and lower cost opportunities; and
- greater emphasis on non-competitive, unstructured recreation opportunities.

Specific participation trends for Randwick City (Sections 5 and 10) include:

- a high (79%) of residents surveyed had participated in a physical activity in the previous 12 months on a regular basis;
- walking was the most popular activity, followed by swimming, running/jogging and aerobics/fitness;
- participation rates for walking, swimming, running, soccer and netball are higher than the National and NSW averages;
- participation rates for aerobics/fitness, cycling, tennis and golf are below the National and NSW averages; and
- more recreation activities are unstructured than organised by a club or group.

The draft Study considers the issues for open space and recreation facilities provision arising from these demographic data and participation trends. The draft Study recognises the ongoing need to provide improvements to open space and recreation facilities given the slowly expanding local population base and an expanding regional population within close proximity to our City. There will be a continued strong

demand for 'traditional' sports such as cricket, rugby league, netball, tennis and water sports. Demand is also likely to increase for unstructured, passive recreation and low intensity sporting pursuits such as walking, golf, lawn bowls, indoor social activities and the use of parks to support the ageing population.

Supply of Open Space

Quantity/Area of open space:

The draft Study (Section 6) identified approximately 1,352 hectares of open space within Randwick City, representing 26% of the local government area. There are over 100 parks and reserves, most of which are managed by Council, while a number of large open space areas are managed by other bodies including Centennial Park, Randwick Racecourse and the Botany Bay National Park. In some instances areas of open space have restricted public access eg. Randwick Racecourse and golf courses.

The draft Study notes that within the East Subregion (Woollahra, Waverley, Randwick and Botany Bay Council areas) there are approximately 1,670 hectares of open space of which 80% (approximately 1,350 hectares) is located within Randwick City. Yet Randwick City comprises only 45% of the total area of the East Sub-region. It also has only 45% of the total population of the East Subregion. It is therefore likely that Randwick City is partly catering for the open space demands of a catchment population beyond its own residents and local sporting groups.

The Study notes that the current provision of open space is approximately 11.13 hectares per 1,000 people. While there is no universally accepted standard for the amount of public open space required in relation to population, comparisons have been made to other local areas (City of Sydney, Leichhardt, Ashfield, etc) and Randwick City is well above provision in these local government areas.

Quality/Types of open space:

Classification of the City's open space, based on setting, use, vegetation types, size, furniture and facilities, is included in a detailed audit in the draft Study (Section 7) and Appendix 1. This includes over 100 parks comprising regional parks (4), district parks (8), neighbourhood parks (21) and pocket parks (85). There are also beach and coastal reserves, civic parks and places, remnant bushland areas (23) and roadside reserves.

In addition to quantity, the type and character of open space is an important part of the assessment as to whether provision meets the needs of the community. The draft Study (Section 8) includes consideration of the quality of Randwick City's open space attributes including; access to open space, range of recreation opportunities, shade and landscaping, park elements, viewing opportunities and maintenance standards. Each of these attributes is considered in detail in the draft Study and recommendations for improvements are included in the Recreation Strategy Implementation (Action) Plan.

Passive and Active open space:

The existing provision and condition of active recreation and sporting facilities is considered in Section 9 of the draft Study. Recreation and sporting opportunities in Randwick City include (but are not limited to) cricket, fitness gymnastics, golf, lawn bowls, netball, rugby league, rugby union, skate boarding, soccer, squash, surf sports, swimming and tennis. There are over 40 community sporting clubs and associations utilizing grounds and facilities directly managed by Council, and a similar

number utilizing those managed by other not-for-profit organisations or the private sector.

The coastal reserves and coastal walkway were noted as providing high quality passive recreation opportunities, and there are numerous pocket parks and neighbourhood parks for local communities of varying quality and provision of facilities.

The draft Study considered the adequacy of the existing provision of sporting facilities based on benchmarks per thousand population (where available). The results showed a current oversupply of facilities for lawn bowls and less than optimum number of facilities for cricket, rugby league, rugby union, indoor court sports, soccer and tennis. School facilities were also considered and detailed in the Study's Appendix 2 (School Facilities Audit) and it concluded that there appears little opportunity to increase the provision of sporting and recreation facilities for external groups through shared use of these school facilities, given high levels of existing use by those schools.

There is a broad range of sporting facilities, however the condition of outdoor sports fields are generally average to poor, caused mainly by overuse. While growth in sporting participation is expected to continue, and is positive for the community's health and well-being, there is little capacity to absorb expected increases in demand especially for winter field sports. The draft Study identifies some opportunities to expand the number of fields at existing locations including Pioneers Park, Heffron Park, Yarra Oval and the Women's Athletic Field, the latter of which the management responsibilities are being transferred to Council. The draft study also identifies opportunities to expand capacity of existing fields, through lighting to provide for night training on a wider range of fields, and through landscaping and maintenance measures to improve field capacity.

Community and Stakeholder Consultation during preparation of the draft Study

Consultation with residents and other stakeholders (including sporting clubs, community groups and schools) was undertaken during the preparation of the draft Study including a telephone survey (350 households), face-to-face interviews and community and sporting group submissions. Section 10 and Appendix 3 of the draft Study detail the comments received during the consultation and analysis of the telephone survey. The survey provides information on participation rates, popular activities (walking, swimming, running/jogging and aerobics/fitness) and reasons for participating in fitness activities (enjoyment, fitness and relaxation).

The consultations noted a general community satisfaction with the quality and distribution of sporting facilities and parks, with most residents rating the overall quality and distribution of parks, beaches and reserves as either 'very good' or 'good'.

Key points raised for improvements were:

- future improvements to parks maintenance
- upgraded and additional bike paths and shared trails,
- more shade, public toilets and picnic areas;
- new sport, recreation or park facilities including basketball areas, skateboard areas, BBQs, playgrounds, indoor swimming and tennis courts;
- improved playgrounds (eg. design, equipment and fencing);
- retention and expansion of large open space areas for off-leash dog exercise;
- youth / community recreation centre for Maroubra Beach precinct.

Key points raised by sporting groups include:

- improve amenity blocks (referee rooms, storage, canteen areas, toilets/change rooms);
- more playing fields;
- covered spectator areas (either extended amenity block verandahs or shade cloths);
- upgraded playing surfaces (levelling, automated irrigation systems, grass coverage);
- new/upgraded floodlights.

A survey of sporting groups also noted ways that Council can improve its management, including responsiveness to user group enquiries, amenity building maintenance, seeking grants for capital improvements to facilities, developing new facilities or improving areas around reserves and providing club development and management support.

Consultation with older adults and people with a disability identified a number of future needs including: improved community transport, hydrotherapy facilities, accessible public toilets, disabled parking, accessible footpaths and kerbs, tactile elements in parks for sight impaired people, accessible park furniture and improved signage.

Consultation with young people included the need for a youth activity space and high need for indoor sporting areas (informal and competition use).

Strategy Implementation (Action) Plan

The Implementation Plan identifies actions to improve and develop recreation facilities and services in Randwick City. Actions have been broken into four key objectives:

1. Providing accessible and diverse open space and recreation facilities and services.
2. Building participation in recreation across all sectors.
3. Managing and resourcing recreation provision.
4. Partnering and collaborating with stakeholders.

Under each objective are a number of strategies, actions and projects which reflect the analysis and consultation undertaken in preparation of the draft Study.

Public Exhibition / Next Steps

This report recommends that the draft Study and Implementation (Action) Plan be placed on public exhibition. As part of the consultation strategy for this study, and to continue the community and sporting groups consultation and input into this process, exhibition will include:

- An extended exhibition period (10-12 weeks);
- notices in the local paper fortnightly during the exhibition period;
- information on Council's website and at Council's Customer Service Centre and the Bowen, Matraville and Randwick Libraries;
- information posters in key open space areas;
- comment sheets available at all exhibition venues and Council's website;
- information workshops for sports groups, Precinct Committees and key target groups;
- staff available for face-to-face enquiries and phone enquiries.

All submissions will be assessed and reported back to Council for the final decision on the draft Recreation Needs Study and Implementation (Action) Plan.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 2: A vibrant and diverse community

Direction 2a: Maintain a current understanding of our community's needs

Outcome 5: Excellence in recreation and lifestyle opportunities

Direction 5a: Maximise opportunities for residents and visitors to enjoy both active and passive open space uses

Direction 5b: A range of cultural, sporting and leisure activities

Direction 5c: New open spaces are created as opportunities arise

Outcome 6: A liveable city

Direction 6a: Our public assets are planned, managed and funded to meet community expectations and defines levels of service

FINANCIAL IMPACT STATEMENT:

The Study was commissioned for \$80,000 with funding allocated from the Parks Capital Works Program and S94 budgets.

CONCLUSION:

The draft Recreation Needs Study has been prepared by Stratcorp Consulting to identify the open space and recreation needs of Randwick City and to assist in determining priorities for the improvement of open space resources and the provision and improvement of future active and passive recreation facilities. This will provide a sound basis for Council's future planning, delivery, maintenance and promotion of sports and leisure activities in our City.

RECOMMENDATION:

That Council agree to the public exhibition of the draft Recreation Needs Study.

ATTACHMENT / S:

Draft Recreation Needs Study - UNDER SEPARATE COVER

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SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
KERRY LONGFORD
SENIOR PLANNER/CONSULTANT

Director, City Planning Report 106/2007



SUBJECT:	Proposed Coogee Licensed Premises Social Impact Assessment Update		
DATE:	15 November, 2007	FILE NO:	F2004/07767

REPORT BY: DIRECTOR, CITY PLANNING

INTRODUCTION:

On 10 October 2006, Council resolved to endorse a twelve month delay to the proposed Social Impact Assessment (SIA) of the licensed premises in Coogee Bay, and that a report be brought back to Council before its commencement in November 2007.

In October 2007, members of the Residents' Committee, established in 2006 to oversee the consultancy for the SIA, were advised by council staff that the SIA process was due to commence. Several residents indicated their preference for the SIA process to be postponed for a further twelve months. They considered that an increased Police presence in the Coogee area as part of the NSW Government Crime Prevention Partnership (CPP), established in the summer of 2006 and continuing this summer, may skew the results of the SIA. This report discusses the residents' requests and recommends that the project be delayed for an additional twelve months.

ISSUES:

Background

On 28 March 2006, Council considered a report and resolved to commission a consultant to prepare a Social Impact Assessment (SIA) in relation to licensed premises in Coogee Bay in response to requests from a number of residents. The SIA was to examine the local impacts of the current trading hours of the premises and propose strategies to ameliorate any impacts.

Following Council's resolution the Coogee Precinct Committee was invited to nominate representatives to be involved in the SIA project. Committee members were involved in the selection of a consultant and expanding the terms of the project brief. A consultant was engaged to complete the study with work to commence in November 2006.

In September 2006, several members from the Residents' Committee requested to delay the project due to the NSW Government's announcement of an increased Police presence in the Coogee basin as part of the NSW Government's Crime Prevention Partnership (CPP). Council subsequently resolved to delay the SIA until November 2007 and that a report be brought back before its commencement.

In October 2007, members of the Residents' Committee were contacted by Council staff and advised that the SIA was shortly due to commence. Seven of the eleven residents indicated their preference for the SIA process to be postponed for a further twelve months, although two questioned whether there was still a need to proceed with the study and one stated that they were unconcerned. One resident disagreed with further delaying the study and three residents could not be contacted. Those supporting a further delay considered that the planned increase in Police presence in Coogee as part of the CPP from November 2007 onwards is likely to skew the results of the SIA.

Planned Police operations

Police operations targeting anti-social behaviour will commence in November 2007 and run until March 2008 as part of the NSW Government's Crime Prevention Partnership (CPP), although Police have advised that there will be fewer officers involved in operations this year.

The CPP was established in 2006 in four pilot locations across the State to address non-domestic assault rates in NSW. The objectives of the CPP is to engage local cross agency teams to identify issues that drive assault rates in problem areas and develop local strategies and action plans to reduce them. Council was invited to participate in the CPP along with a number of other agencies including the Eastern Beaches Local Area Command, Department of Housing, Department of Community Justice, Attorney General's Department, State Transit Authority, Department of Gaming and Racing, Department of Community Services and the Premier's Department.

Council is working with a number of these agencies on initiatives to reduce anti-social behaviour in the Coogee area such as the reopening and provision of security personnel at the public toilets in Goldstein Reserve, the re-establishment of the late night Pumpkin Bus Service, provision of a second secure taxi rank and the preparation of a Crime Prevention and Community Safety Plan, 'A Safer Randwick City'.

Consultant

The consultant selected in 2006, CRED Community Planning, provided a quotation of \$20,000 to complete the brief. The consultant was subsequently advised of the twelve month delay in the SIA, to which they had no objections. In October 2007, Council contacted CRED to determine their availability to commence the SIA in November 2007. The consultant indicated that they would be able to commence the SIA in November 2007.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 6: A Liveable City.

Direction 6c: The safety of our community is paramount and is acknowledged and supported through proactive policies, programs and strategies.

Key Action: Develop and implement effective regulatory environmental, public health and safety services and programs to maximise public safety and anti-social behaviour of buildings and spaces.

FINANCIAL IMPACT STATEMENT:

The consultant has provided a costing estimate of \$20,000 for the SIA. As resolved by Council, the proprietors and licensee of the hotels have been requested to contribute to the cost of the project. Council is still awaiting a response. Council also resolved that, should the licensed premises not agree to contribute, Council will fund the project. Funds are available in the current budget for Strategic Planning to complete the SIA.

CONCLUSION:

Following the establishment of the NSW Government's Crime Prevention Partnership (CPP) in 2006 a range of initiatives have been implemented to address alcohol-related, anti social behaviour in the Coogee area. A number of these initiatives are about to recommence including the late night Pumpkin Bus Service and the provision of security personnel at the public toilets in Goldstein Reserve. A number of additional initiatives have also been included in 'A Safer Randwick City' that will be reported to Council shortly.

From November 2007 until March 2008 there will also be an increased Police presence in the Coogee area as part of the CPP. It is likely that high visibility Police operations will continue in the Coogee area over the summer months in future years. Given that a majority of residents on the Residents' Committee have requested a further twelve month delay, it is considered appropriate that the SIA process be postponed for 12 months and the influence of CPP or other Police initiatives can be further assessed at that time

RECOMMENDATION:

That Council:

- a) endorse a further twelve month delay to the SIA process and a report be brought back to Council with a recommendation whether or not to commence the process in November 2008; and
- b) advise CRED Community Planning and the Residents' Committee accordingly.

ATTACHMENT / S:

Nil

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SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
DAVID BRIANT
SENIOR SOCIAL PLANNER

GENERAL MANAGER'S REPORT 46/2007



SUBJECT:	September 2007 Quarterly Review - Management Plan 2007-11

DATE:	12 November, 2007	FILE NO:	F2007/00140

REPORT BY: GENERAL MANAGER

INTRODUCTION:

The purpose of this Report is to update Councillors and the community on the implementation of the 2007-11 Management Plan.

ISSUES:

This is the September 2007 Quarterly Review of the 2007-11 Management Plan. Under the Local Government Act 1993, there is the requirement that a Report must be provided after the end of each quarter, detailing the extent to which performance indicators and targets set by Council's Management Plan have been achieved during the quarter.

The attached Report is the first Randwick City Council Quarterly Report to be presented as per the City Plan outcomes and directions rather than by organisational structure. This reporting initiative is part of Council's commitment to quality integrated planning and to providing a high level of accountability to our community regarding implementation of the *20 year Randwick City Plan*. The change in reporting methodologies was made possible through the implementation of integrated planning software, OutcomeManager. Implementation of the software involved a whole-of-Council approach which was driven by Organisational Performance and Governance and Financial Services.

The September Quarterly Report is presented in two parts. The first outlines some of the highlights for the Quarter, while the second provides comments and progress figures for each of the 2007-08 Management Plan actions. It should be noted that if the progress for an action is less than 25 per cent this most likely reflects the fact that the majority of the work is to be undertaken later in the financial year. It should also be noted that the publishing capabilities of the reporting will be improved over the financial year.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 1: Leadership in Sustainability

Direction 1a: Council has a long term vision based on sustainability

Direction 1d: Continuous improvement based on accountability, transparency and good governance.

FINANCIAL IMPACT STATEMENT:

There is no direct financial impact for this matter.

CONCLUSION:

The purpose of the September Quarterly Report is to inform and update Council and the community on the progress of all actions as set out in the adopted Management Plan 2007-11. In addition, given that the Management Plan is based on the *20 year Randwick City Plan* and that the newly adopted reporting format is based on outcomes rather than organisational structure, the September Quarterly Report also provides a level of accountability against our long term vision for the City of Randwick.

RECOMMENDATION:

That the information contained in the September 2007 Quarterly Review of the 2007-11 Management Plan be received and noted.

ATTACHMENT / S:

Randwick City Council September 2007 Quarterly Report - UNDER SEPARATE COVER

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GENERAL MANAGER

GENERAL MANAGER'S REPORT 47/2007



SUBJECT:	AFFIXING OF THE COUNCIL SEAL

DATE:	13 November, 2007	FILE NO:	F2004/06336

REPORT BY: GENERAL MANAGER

INTRODUCTION:

Clause 400 (Part 13) of the Local Government (General) Regulation 2005 requires that the Seal of the Council must not be affixed to a document unless the document relates to business of the Council and the Council has resolved (by resolution referring to the document) that the Seal be so affixed.

ISSUES:

It is necessary for the Council's Seal to be affixed to the signing of agreements between Council and:

1. Peter Sleiman Property Investments Pty Ltd & Nabil Sleiman Property Investments Pty Ltd in relation to an airspace lease over the balconies located at 186 Arden Street, Coogee.
2. Learning Links in relation to a lease over the premises at 1/20 Silver Street, Randwick.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 7: A Liveable City that Balances Growth and Change.

Direction 7f: Town Centres that meet the needs of our community as places to work, shop, live and socialise.

FINANCIAL IMPACT STATEMENT:

In signing of these agreements, Council will receive the following income:

1. An airspace lease with Peter Sleiman Property Investments Pty Ltd & Nabil Sleiman Property Investments Pty Ltd will generate an annual income of \$9,877.20 + GST.
2. A lease with Learning Links will generate an annual income of \$23,000.00 + GST.

CONCLUSION:

As Clause 400 (part 13) of the *Local Government (General) Regulation* requires that the Council pass a resolution authorising the Affixing of the Seal, it is necessary for this action to take place to facilitate legal formalities.

RECOMMENDATION:

That the Council's Seal be affixed to the signing of agreements between Council and:

1. Peter Sleiman Property Investments Pty Ltd & Nabil Sleiman Property Investments Pty Ltd in relation to an airspace lease over the balconies located at 186 Arden Street, Coogee.
2. Learning Links in relation to a lease over the premises at 1/20 Silver Street, Randwick.

ATTACHMENT /S:

Nil

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GENERAL MANAGER

GENERAL MANAGER'S REPORT 48/2007



SUBJECT:	CONTROLS FOR THE CONSUMPTION OF ALCOHOL AT JACK VANNY MEMORIAL PARK, ARTHUR BYRNE RESERVE AND MAROUBRA BEACH

DATE:	12 November, 2007	FILE NO:	F2004/07501

REPORT BY: GENERAL MANAGER

INTRODUCTION:

Reference is made to a request made by the Eastern Beaches Local Area Commander – Superintendent Philip Rogerson, through the Premier's Crime Prevention Partnership (CPP), for Council to assist Police to control the consumption of alcohol at Maroubra Beach and the adjacent Reserves and Parks by erecting appropriate regulatory signage.

BACKGROUND:

By way of background information, a Council may regulate certain activities in a *public place* by erecting a "notice" [a sign] that limits, controls or prohibits the activity. The notice, once erected, becomes enforceable pursuant to section 632 (1) of the *Local Government Act 1993* (the LG Act). Section 632 of the LG Act, states:

"632 Acting contrary to notices erected by councils

- (1) *A person who, in a public place within the area of a council, fails to comply with the terms of a notice erected by the council is guilty of an offence.*

Maximum penalty: 10 penalty units.

- (2) *The terms of any such notice may relate to any one or more of the following:*

- (a) the payment of a fee for entry to or the use of the place,*
- (b) the taking of a vehicle into the place,*
- (b1) the driving, parking or use of a vehicle in the place,*
- (c) the taking of any animal or thing into the place,*
- (d) the use of any animal or thing in the place,*
- (e) the doing of any thing in the place,*
- (f) the use of the place or any part of the place.*

- (2A) *However, a notice:*

- (a) must not prohibit the drinking of alcohol in any public place that is a public road (or part of a public road) or car park, and..."*

Under the legislation a person who fails to comply with the notice is guilty of an offence and liable to a maximum penalty of \$1,100.00.

Importantly, pursuant to section 679 of the LG Act, an *authorised person* may issue, to a person acting contrary to a notice erected by a council, a \$110.00 Penalty Notice (on-the-spot fine). An *authorised person* is an employee of a council generally or specially authorised to issue Penalty Notices under the Act, or a Police officer.

As such, it is the "notice" itself which regulates activities in a public place. In the absence of such notices a council has no enforcement mechanism to regulate those activities in a *public place* which a council wishes to control.

ISSUES:

Police have indicated that Maroubra Beach, Jack Vanny Memorial Park and Arthur Byrne Reserve are being used by groups of people congregating to consume alcohol into the night. This activity is resulting in increased disturbances and alcohol related anti-social behaviour.

Police through the CPP have requested that Council prohibit the consumption of alcohol at Arthur Byrne Reserve and Jack Vanny Memorial Park between sunset and sunrise.

It is important to note that, on the 18 October 2005, Council re-established an Alcohol Free Zone in the vicinity of the Maroubra Beach Area which includes the following roads and car park areas:

- Road and footpath areas on both sides of Marine Parade from Maroubra Road to Fitzgerald Avenue,
- Road and footpath areas on both sides of McKeon Street from Marine Parade to Duncan Street,
- Carpark and footpath areas in the carpark behind the Maroubra Beach Pavilion.

Council has, in place, controls with respect to the consumption of alcohol upon the streets and car parks surrounding the Beach area, but no controls, with the exception of the Maroubra Skate Park area (see photographs – Figure 1 & Figure 2) with respect to the consumption of alcohol in the adjacent parks and reserves.



Police and Council Sign Audit

A recent audit conducted by Police and Council's Senior Planning & Environment Compliance Officer has disclosed that presently there are no notices erected in either Jack Vanny Memorial Park or Arthur Byrne Reserve (with the exception of signage at the entrance of the Maroubra Beach Skate Park), including the Maroubra Beach Promenade adjacent to the Beach Pavilion Building which controls the consumption of alcohol. As outlined in the "Background" to this report, in the absence of such signage Council, and more importantly the Police, cannot control the consumption of alcohol on the beach front or in the adjacent Reserve and Park.

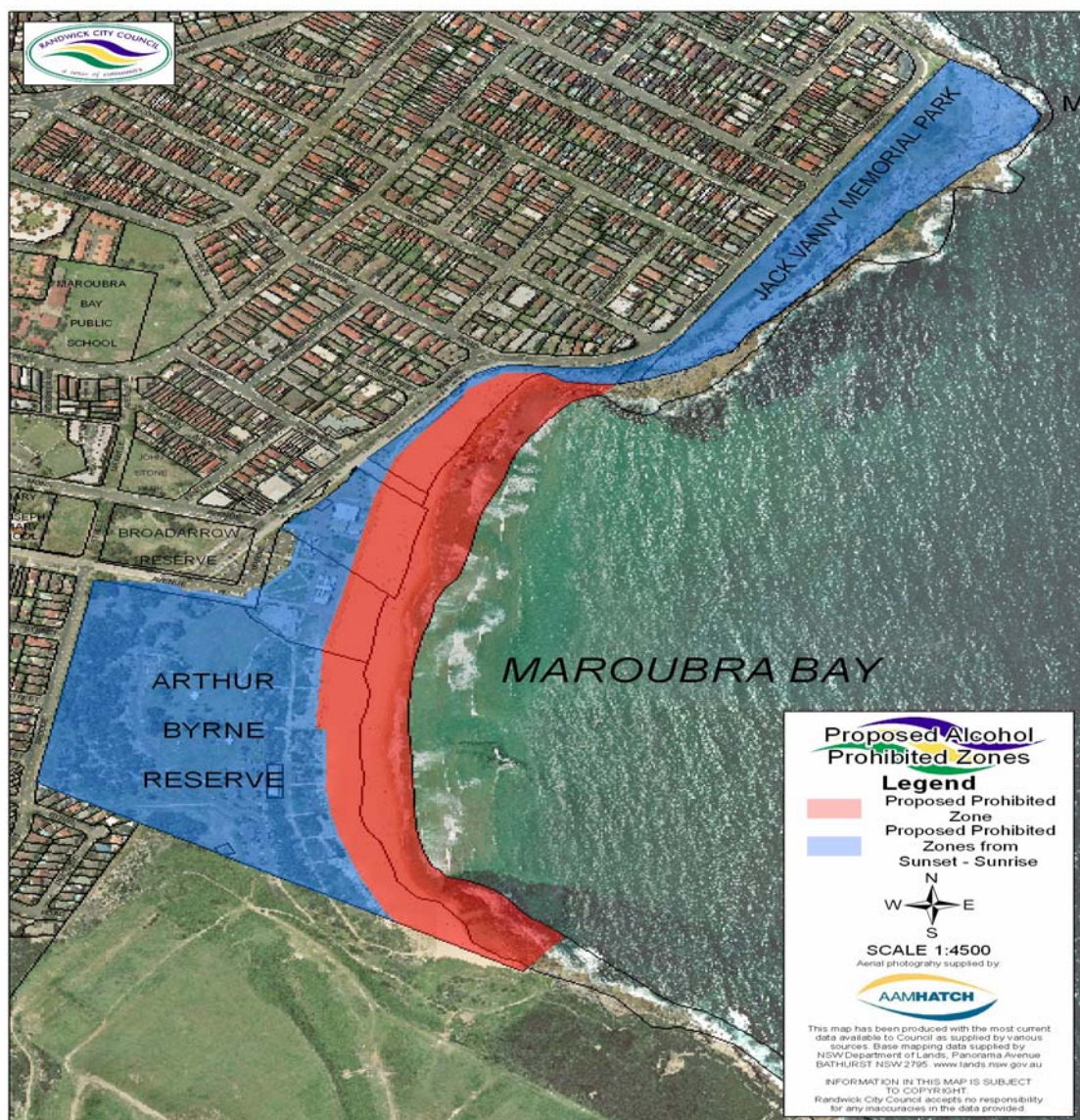


Figure 3 – Proposed Alcohol Prohibited Zones

Proposed Alcohol Prohibited Zones

Police contend that should Council erect “notices” restricting the consumption of alcohol between sunset and sunrise, throughout Jack Vanny Memorial Park and Arthur Byrne Reserve, it will enable the Police to enforce and deter instances of late-night alcohol consumption at the Park and Reserve. Appropriate signage should also be installed advising of the total prohibition of the consumption of alcohol at the beach promenade and on the beach itself.

Such controls on the consumption of alcohol, as described by Figure 3, if implemented should not unduly impact upon the orderly use of the area by residents and visitors who, during daylight hours, may still enjoy a drink at the Park and Reserve. Moreover, such controls may be viewed as an appropriate method of promoting the responsible use of alcohol in a public place.

An additional consideration, cognate with the rise in popularity of Maroubra Beach, is that the increased use of the Beach and its reserves may of itself warrant greater

control of permitted activities. Visitation statistics collected by Council's Life Guards indicate that there continues to be exponential growth in the number of people visiting Maroubra Beach. In the year 1999 - 2000 there was an estimated 1,502,575 beach users, this has increased by over one million to 2,630,500 people in the year 2006 - 2007.

The above increase may, by this very fact, inform a view that the increased use of the Beach and its surrounding reserves requires the implementation of reasonable controls which promote the safe and convenient use of those public spaces.

Parks & Open Space Regulatory & Information Signage System Project

Council officers are currently conducting a Parks & Open Space Regulatory & Information Signage System Project. This project is a signage improvement program for all of our parks and open spaces and will address all manner of signage information for these areas, including prohibited activities, advisory matters as well as park/beach points of interest. Alcohol restrictions will be an important part of the signage information system.

However, this is a City-wide project and as such the signage installation program will not take place until well into 2008. A short term solution, if Council resolves to implement signage as proposed in this report, would be to install interim signs at these locations.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 6: A Liveable City.

Direction 6c: The safety of our community is paramount and is acknowledged and supported through proactive policies, programmes and strategies.

Key Actions: Develop and implement a range of programmes to foster a safer City.
Develop and implement effective regulatory environmental, public health and safety services and programmes to maximise public safety and anti-social behaviour of buildings and spaces.

FINANCIAL IMPACT STATEMENT:

The installation of additional regulatory signage will be absorbed within Council's existing budget.

CONCLUSION:

Superintendent Philip Rogerson, through the Premiers Crime Prevention Partnership (CPP), has requested that Council erect the appropriate regulatory signage at Jack Vanny Memorial Park and Arthur Byrne Reserve, Maroubra to restrict the consumption of alcohol between sunset and sunrise.

Superintendent Rogerson has advised that this will provide the mechanism whereby Police are able to enforce and deter instances of late-night alcohol consumption at the Park and Reserve which often leads to anti-social behaviour.

RECOMMENDATION:

That:

- a) Council erect notices, in accordance with the relevant standards and guidelines, which prohibit the consumption of alcohol between sunset and sunrise at Arthur Byrne Reserve and Jack Vanny Memorial Park, Maroubra;
- b) Council erect notices, in accordance with the relevant standards and guidelines, which prohibit the consumption of alcohol on Maroubra Beach; and
- c) The General Manager advise the Eastern Beaches Premier's Crime Prevention Partnership of Council's determination of this matter.

ATTACHMENT / S:

Nil

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GENERAL MANAGER

GENERAL MANAGER'S REPORT 50/2007



SUBJECT:	HEFFRON PARK LANDSCAPE CONCEPT PLAN - FUNDING OPTIONS

DATE:	10 October, 2007	FILE NO:	F2006/00141 08399

REPORT BY: GENERAL MANAGER

EXECUTIVE SUMMARY:

Following an extensive public consultation and exhibition on the draft Heffron Park Landscape Concept Plan, Council endorsed the Plan at its meeting of 27 June 2006, subject to minor changes to some sporting fields and facilities and the removal of all references to residential development in the airspace above the multi-use recreation centre. The Landscape Concept Plan will provide the basis of a draft Plan of Management for the Park, which, as a Crown Reserve, will require approval of the Minister for Lands.

Three funding options were exhibited for public comment, including: the use of existing rates and S94 developer contributions (requiring approximately 70 years to fully fund the upgrade), a rate levy of approximately \$40 per household per year (requiring 20 years), and a residential development in the airspace above the proposed indoor sporting facility (requiring 5 years while also providing ongoing park maintenance funding). Feedback from the consultation is provided below. Council resolved that further investigations into a broader range of funding options and staging be undertaken and reported back to Council.

An initial \$43.3M estimate of costs for landscape and building works in the Landscape Concept Plan was provided by the specialist landscape architects/planners as a preliminary guide and to assist in public consultation during the exhibition of the Landscape Concept Plan. However, in order to investigate additional funding options, Council commissioned a Quantity Surveyor to prepare detailed costing of the landscape and building works.

This report provides:

- information on previous community consultation regarding funding options;
- refined staging plan for the landscape and building works in the Landscape Concept Plan;
- detailed costing for landscape and building works; and
- outcomes of investigations into available funding options.

This report also recommends that Council endorse funding Option 3Ai and that the draft Heffron Park Plan of Management include details of this Option. It also recommends that the draft Plan of Management be reported to Council prior to public

exhibition and that Council continues discussions with sports groups and associations and the University of New South Wales regarding future funding and cooperation with grants applications.

Community Consultation – Funding Options

Three funding options were exhibited for public comment during the public exhibition of the Landscape Concept Plan (May 2006), including:

- use of existing rates and S94 developer contributions (requiring 70 years to fully fund the upgrade),
- rate levy of approximately \$40 per household per year (requiring 20 years), and
- residential development in the airspace above the proposed indoor sporting facility (requiring 5-6 years while also providing ongoing park maintenance funding).

Feedback during the community consultation was received through written submissions (98 submissions) and community feedback forms (387 forms). Two petitions were also received. As noted in the previous report to Council's 27 June 2006 meeting in relation to the proposed funding options, of those responding to this issue the majority (over half) were in favour of the option of residential development in the airspace above the indoor sports centre. Of the 98 written submissions, 21 (21%) commented only on the proposed funding options (all objecting to or querying the residential funding option). Of the community feedback forms 14% of responses preferred the use of existing rates and developer contributions, 24% preferred a special rate levy and 62% preferred using the residential development in the airspace above the indoor recreation facility. Both petitions however related to the funding and strongly opposed the proposed residential option. The funding options were a highly controversial element of the public exhibition and Council therefore resolved that further investigations into a broader range of funding options and staging be undertaken and reported back. This report provides the outcomes of investigations into funding options and staging investigations.

ISSUES:

STAGING

Staging for the landscape and building works was identified by Clouston Associates, the landscape architects who prepared the Landscape Concept Plan. The stages are based around works that would be required to be undertaken simultaneously and that target the development of a particular sporting precinct while allowing the rest of the park to continue operating as normal; with the exception of cricket and cycling as these sporting facilities are located throughout the park and would therefore fall into several stages of development.

It is however noted that particular landscape works may be commenced outside the staging plan if funding becomes available from new sources such as sporting groups or grants. Consideration of the discussions to date with sporting groups is provided in a later section in this report.

The five stage process identified by the landscape architects is considered suitable for the future park upgrade. The following staging has thus been used in the funding modelling process and is shown on the maps in Attachment 2.

Stage 1: primarily focuses on improvements to the parklands passive recreation areas, eastern sporting fields and general landscape amenity to improve the opportunities for quality passive recreation for the local community. Landscape works are generally located in the south eastern area of the Park and include:

- Eastern Soccer Precinct
- Central Recreation Precinct
- Southern Recreation Precinct
- Central Eastern Clubhouse/Amenities Building
- Associated footpath, drainage, irrigation, park furniture and landscaping

It is noted that the children's playground located in the Southern Recreation Precinct is currently being planned and designed, with construction anticipated to commence early in 2008. Funding for this work has been allocated from the current 2007/08 Budget.

Stage 2: this stage focuses on the south western area of the Park, primarily catering for sporting fields and facilities and also including general landscape amenity improvements, including:

- South Western Rugby League Precinct
- Tennis Precinct
- Main Cricket / AFL Oval
- Handball Precinct
- Criterium Cycle Track
- Associated footpath, carparking, drainage, irrigation, park furniture and landscaping

Stage 3: primarily this stage focuses on the redevelopment of the areas in the north of the Park, both sporting fields and passive recreation areas, including:

- Northern, North West and Central Soccer Precincts
- Netball Precinct
- North West Recreation Precinct
- Emergency Access Road
- Central Western Clubhouse/Amenities Building
- Associated footpath, carparking, drainage, irrigation, park furniture and landscaping

Stage 4: this stage focuses on redevelopment of areas in the south of the Park including:

- Oz Tag and Touch Football Precinct
- Southern Clubhouse/Amenities Building
- Associated footpath, carparking, drainage, irrigation, park furniture and landscaping

Stage 5: this stage would focus on the development of a new synthetic hockey field and as these works would not significantly impact on other users, with the exception of cycling, this stage can commence at anytime, dependent on funding. Works in Stage 5 include:

- Hockey Precinct
- North East Rugby League Precinct (carparking and cricket pitch only)
- Associated footpath, carparking, drainage, irrigation, park furniture and landscaping

COSTING OF ELEMENTS OF THE LANDSCAPE CONCEPT PLAN

In order to provide and compare funding options for Heffron Park, greater detail and accuracy of the cost of the proposed works was required. There are three main components of the costing:

1. Landscaping and Building Works - based on the Landscape Concept Plan.
2. Indoor Recreation Centre
 - High and Medium Cost – a new facility, including aquatic centre, proposed on the Bunnerong Road side of the Park.

- Low Cost and Gymnastics Building (low cost) – basic structures which provide for indoor sports but have no aquatic centre. These would be provided if the Des Renford Aquatic Centre is retained and upgraded in its current site.
3. Des Renford Aquatic Centre – a range of costs for upgrading the Aquatic Centre in its current location.

Council commissioned Quantum Construction Consultants, Quantity Surveyors to undertake detailed costing of both the Landscape and Building Works identified in the Landscape Concept Plan (Stage 1-5) and the Indoor Recreation Centre concept design. The costs below exclude maintenance costs and any income from use of facilities or sporting fields. It is also noted that the costs below are based on 2006 estimates and that an escalation cost of up to 15% per annum should be anticipated. Different levels of costing (high, medium and low) were provided based on quality of design, works and inclusions/exclusions as detailed in Attachment 3 and in summary as follows.

Remediation Costs

Given the Park's history of varied use, Council will undertake the appropriate additional contamination investigations prior to any major development within the Park and undertake the necessary remediation in accordance with the State Environmental Planning Policy No.55 and all other relevant State legislative requirements. Funding for any remediation works (including restoration of the site) will be sourced from Council's Domestic Waste Levy as discussed below. The costs below do not include remediation costs; however some landscape works below can be incorporated into the restoration works.

Landscaping and Building (Amenities Only) Works:

High cost:	Cost includes all landscaping and building works identified in the Landscape Concept Plan to a high quality. Cost includes 35% allocated for preliminaries, contingency and professional fees.	\$35.6M
Medium cost	Cost includes landscaping and building works identified in Landscape Concept Plan with maintenance only of existing fields rather than new landscaping, reduced lighting and reduced improvements to passive recreation areas. Cost includes 35% allocated for preliminaries, contingency and professional fees.	\$31.6M
Medium-Low cost	Cost based on retaining Des Renford Aquatic Centre in existing location. All other works are as per the medium cost option above. Cost includes 5% contingency based on Council undertaking landscaping works primarily in house.	\$23.4M
Low cost	Cost based on limited landscaping works identified in Landscape Concept Plan. The following (which are included in the high & medium costings above) have not been included in this option: passive recreation upgrades (estimated at \$1.4M), drainage and irrigation works (estimated at \$1.8M), feature park areas and public art (estimated	\$11.0M

	at \$0.25M), fixtures and furniture (estimated at \$0.25M) and deleting the three Clubhouse/Amenities Buildings (estimated at \$1.2M). Cost includes 5% contingency based on Council undertaking most landscaping works in house. It is noted that the remediation of the Park will result in extensive groundworks and that the park surface/field restoration costs are not allocated in this option, as this option does not include re-surfacing.	

Indoor Recreation Centre

Council commissioned Cox Richardson Architects to prepare a detailed concept design for the Indoor Recreation Centre based on Council's requirements and those identified during consultation with sporting groups (refer Attachment 1 for list of requirements). The purpose for preparing the concept design was to identify the space required to accommodate all the recreation facilities and Council's requirements, identify the relationship between activities within the indoor recreation centre and to assist in providing design of sufficient detail to enable the costing of the Indoor Recreation Centre.

High cost (includes aquatic centre)	Cost includes purpose built indoor recreation centre located on Bunnerong Road side of Park and including an aquatic centre, gymnastics centre and all the features identified in Attachment 1. Cost includes 35% allocated for preliminaries, contingency and professional fees.	\$49.5M
Medium cost (includes aquatic centre)	Cost inclusions as above but with reduced floor circulation area and no childcare centre. Cost includes 35% allocated for preliminaries, contingency and professional fees.	\$41.0M
Low cost (indoor recreation centre) (no aquatic centre)	Cost of new basic structure (maximum floor area of 2,300m ²) with no aquatic centre. Cost excludes access roads, carparking and landscaping.	\$3.0M
Low cost (gymnastics building)	Cost of new basic structure (maximum floor area of 2,300m ²) and height as per Attachment 1 gymnastics building specifications. No aquatic centre included in cost. Cost excludes access roads, carparking and landscaping.	\$3.0M
Retrofit Existing Gymnastics Building	Alteration works to raise the height of the existing building. Advice from Council's Quantity Surveyor is that the capital expenditure required could not be justified given the condition and age of the building.	\$1.0M

Des Renford Aquatic Centre (upgrading of existing facility at existing site)

High	Cost includes demolition and rebuilding of entire indoor facility, new gym and crèche,	\$18.0M

	2 new 8 lane indoor pools (50m and 25m).	
Medium	Cost includes extending the existing facility, new gym, crèche and entry; widen both indoor 25m pools and small indoor leisure/fun pool.	\$14.0M
Medium - Low	Cost includes maintaining current pool configuration (and water area), undertake necessary plant, heating and structural upgrades and extend the existing facility with new gym, crèche and entry areas.	\$8.0M
Low	Cost includes a new gym, aerobics area, crèche and new administration and entrance area. No works or upgrades to the pool areas are included.	\$4.0M

COST OPTIONS

The above costings for individual elements of the Landscape Concept Plan have been combined into a set of six cost options for the purpose of modelling funding options.

Cost 1:	Option	Landscape (high)	\$35.69M
		Indoor Recreation Centre (high) (including aquatic centre)	\$49.58M
		Total	\$85.27M
Cost 2:	Option	Landscape (medium)	\$31.65M
		Indoor Recreation Centre (medium) (including aquatic centre)	\$41.02M
		Total	\$72.67M
Cost 3:	Option	Landscape (medium) (DRAC retained)	\$23.36M
		Indoor Recreation Centre (low – prefab)	\$ 3.00M
		DRAC Upgrade (medium)	\$14.00M
		Gymnastics Building (low – prefab)	\$ 3.00M
		Total	\$43.36M
Cost 4:	Option	Landscape (low)	\$11.26M
		Indoor Recreation Centre (low – prefab)	\$ 3.00M
		DRAC Upgrade (medium)	\$14.00M
		Gymnastics Building (low – prefab)	\$ 3.00M
		Total	\$31.26M
Cost 5:	Option	Landscape (low)	\$11.26M
		DRAC Upgrade (low)	\$ 8.00M
		Gymnastics (low – prefab)	\$ 3.00M
		Total	\$22.26M
Cost 6:	Option	DRAC Upgrade (low)	\$ 8.00M
		Total	\$ 8.00M

FUNDING SOURCES:

A range of viable sources to fund the Park upgrade were investigated for input to the funding model (refer Attachment 4). These include:

ComponentsS94 Development Contributions

Council adopted a new Development Contributions Plan in July 2007 which has identified in the Works Schedule (Schedule 1) \$10,000,000 towards implementation of the Heffron Park Plan of Management. This expenditure is allocated to commence in the short to medium term (1 – 4 years) and can be allocated on average at \$1,000,000 per annum given that the Plan applies over a 10 year period.

Rates

The funding model includes an annual amount from Council's annual capital budget (general revenue) of \$200,000. This figure can be allocated annually without any significant effect on the ongoing management of Council's Budget.

Specific Rates Levy

Council currently has one levy on rates, the Environment Levy (6%). This levy will conclude in mid 2009. An additional levy was included as an option in the consultation for the Landscape Concept Plan (May 2006) noting that a 5% levy would take approximately 20 years to fund the upgrade. Of the feedback forms, approximately 24% supported this option. The advantage of a levy is that although it is a small increase across all ratepayers it could generate significant revenue for the facility which will benefit the community as a whole. Any new levy will require approval from the Department of Local Government.

An additional levy was included in the funding options, ranging from an additional \$40 to \$100 per household per year.

Borrowing/Loans

Several submissions received during the consultation raised the option of borrowing. The advantage of borrowing money is that construction could occur the minimum time period (3 years), however, repayments will be significantly greater in the long term, given interest rate requirements. The funding model includes options both with and without loans. It is noted that Council's current position is to hold a balanced budget. Borrowing funds would be contrary to this approach and would require some years of budget deficits.

Domestic Waste Levy

Council allocates a portion of the domestic waste levy annually for remediation works on its parks and public spaces. Council has recently made, and anticipates, significant waste savings through improvement and efficiencies in its waste management services, including the retendering of the waste collection services and the proposed relocation and redefined services of the Recycling Centre. It is proposed that \$3,000,000 of this savings is allocated annually from the domestic waste levy for remediation works in Heffron Park, including \$1.5M (50%) to remediate contaminants and 50% to the subsequent reinstatement and restoration of the site. It is noted remediation and restoration works will vary in the different stages of the redevelopment of the Park and that a regular expenditure of \$3,000,000 annually may not be required.

User Charges

Council charges standard fees for use of sports fields and facilities. One of the factors in determining the fees is to ensure that the use of sports fields and facilities remain affordable. These fees however are not sufficient to even partly cover the costs of upgrades and maintenance on Heffron Park. Any funding option that relied on an increase in fees and charges would require a substantial increase to even partly fund the upgrade. This option has not been pursued given Council's principle of minimising user fees and charges in order to maximise the community's accessibility and participation in sports and leisure and thus its overall health and wellbeing.

Grants

There are a variety of grant opportunities available (including sporting and environmental grants), usually based on 50/50 funding with Councils and generally limited to small scale funding. For example, the key NSW Government open space grant scheme is Metropolitan Greenspace fund offering up to \$215,000 for projects (50/50). The significant grants provided previously to beaches and coastlines in Randwick City under the State Coastal Management Program, were available due primarily to the significant cost of coastal hazard works and are not available to parks such as Heffron. Given the uncertainty of grant funds in any year, grants have not been included in the funding model. Council, in partnership with sporting groups, should nevertheless seek all grant opportunities (in partnership with sporting groups) which will contribute to funding. This could be taken on board if, and when, grants are successful.

Residential Development

The funding option for development of an 8 storey residential above the indoor sports centre, as exhibited, was costed by an independent valuation specialist. This funding option would have provided for the full upgrade within 5 -6 years. This option was not supported by Council and has not, therefore, been further detailed or modelled.

Private Public Partnerships

Interested parties such as sports associations could be invited as a funding mechanism to tender for their interest in the indoor centre and/or other areas of the park. With any private public partnerships (PPPs) Council is required to comply with the relevant legislative requirements. The Local Government Amendment (Public-Private Partnerships) Act 2004 (NSW) amends the Local Government Act 2003 (NSW) and provides a regulatory framework for public private partnerships (PPPs) entered into with NSW local governments. The Act provides a framework within which local governments can successfully invite tenders, negotiate and implement PPP arrangements.

Advantages of this option are that the Council bears only a portion of the financial cost and can decide upon a proportion that is considered reasonable, while still gaining the new facilities. Disadvantages are that a component of private ownership could mean higher costs for use by local residents in accordance with user pays charges. In any option, therefore, Council should retain control of the fees and charges for the facilities. This has been broadly investigated and there are only two areas which would be suitable; the indoor recreation centre and the Des Renford Aquatic Centre. This option has not been pursued any further.

Contributions from Sporting Groups

Another potential funding mechanism is sport group contributions. The preparation of the Landscape Concept Plan involved extensive participation with all sporting

groups currently using Heffron Park and the layout and landscape works were supported by the majority of Park users. A number of sporting groups and associations including the Eastern Suburbs Tennis Association, AFL NSW/ACT, Cricket NSW, UNSW, Eastern Suburbs Soccer Football, South Sydney Juniors Rugby League and Bunnerong Gymnastics have been approached regarding contributions and/or support with grant applications. Discussions and negotiations with sporting groups and associations will continue, and where funds become available, landscape works will be brought forward in the staging plan.

Where funds are made available by a sporting group or association for landscape works, a Memorandum of Understanding/Agreement will need to be prepared which will outline issues such as extent of the group's contribution to the works including landscape and building works, timing for completion of works, insurance and security, lease and licencing arrangements, bookings, access and fees, maintenance, upgrading and replacement of facilities.

Council considered a request at its 28 August 2007 meeting from the University of New South Wales (UNSW) for the use of sporting fields including Heffron Park (eastern soccer fields and hockey precinct) and the baseball facility at the Women's Athletic Field. Council is currently undertaking negotiations with the UNSW on the use and upgrading of a number of areas within Heffron Park. Agreements with the UNSW would ensure that the field preparation and upgrades in Heffron Park would occur in the short term while still providing access to local sporting groups and the local community.

Discussion of Funding Options

As detailed above, six cost options were prepared ranging from a cost of \$85.27M for a state of the art indoor facility and sporting fields to a low level upgrade of the Des Renford Aquatic Centre with no improvements to the Park (\$8M) (as detailed above). Each of the six cost options were modelled with a combination of funding options, including:

- Section 94 development contributions of \$1M per annum
- Rates levy ranging from \$40 to \$100 per assessment
- Domestic waste levy \$1.5M per annum
- Existing budget \$200K per annum

The modelling analysis also considered the funding options with and without Council borrowing funds. Attachment 4 provides details of the funding modelling. In summary:

Option 1 (\$85.27M) and **Option 2** (\$72.67M) could be completed within 3 years if Council borrowed funds and used a combination of Section 94, rates levy, domestic waste levy and existing budget, however repayments (loan and interest) would take between 12 and 40 years and would involve significant interest payments. Without loans, works could be completed between 9 – 16 years, however if the rates levy is also removed, the timeframe would be greater than 40 years for both options.

Option 3 (\$43.36M) also could be completed within 3 years if Council borrowed funds and used a combination of Section 94, rates levy, domestic waste levy and existing budget. Repayment would require 6-7 years. Without loans, works could be completed between 6 - 29 years, however if the rates levy is removed, the timeframe would be 24+ years.

Option 3Ai (\$33.36M) is another funding option which was considered. This Option includes the use of funding from Section 94, domestic waste levy and existing budget

and pooling these funds until contributions are available from sporting groups and associations. Unlike the above three Options, this Option does not include loans or a rates levy. Landscaping works could commence in the short term (Year 2) and be staging over a period of 11 years, or earlier if funds from sporting groups or grants become available. In this Option, the cost for the upgrading of the Des Renford Aquatic Centre has been reduced to \$4M and the funding for this would be sourced from internal borrowings. Option 3Ai is the recommended option.

Option 4 (\$31.26M) provides for only very minor upgrades of the landscape and building works and a medium level upgrade of the Des Renford Aquatic Centre. Similar combinations of types of funding were used when modelling this option. However, as with Options 5 and 6 (below) only minor landscape upgrades and maintenance would be undertaken (excludes cost of remediation/restoration works) and funds from the Domestic Waste Levy would not be available.

Option 5 (\$22.26M) and **Option 6** (\$8M) while also modelled, provide for only very minor upgrades and maintenance works, which would not provide for the quality of facilities preferred for a regional park.

It is recommended that Option 3Ai be adopted by Council for the following reasons:

- the Option includes all landscaping and works identified in the adopted Landscape Concept Plan at a level consistent with Heffron Park's status as a regional park. The Option provides for new sporting fields, resurfacing and changes to the cycle track, new walking tracks extensive landscaping and improvements to passive recreation areas (including children's playgrounds, toddler cycle track, BBQ and picnic areas), three new amenities/clubhouse buildings, new tennis courts and car parks.
- The Option also includes a \$4M upgrade of the Des Renford Aquatic Centre at its existing location which would include a new gym, aerobics area, crèche and new administration and entrance area. This would replace the existing ancillary facilities on site at a similar scale and with improved, integrated design. The Indoor Recreation Centre would remain on the Bunnerong Road side of the park as a stand-alone prefab building and would continue to provide for indoor sports (such as basketball, indoor soccer, netball). There will be no aquatic facilities associated with this Indoor Sport Centre. A new Gymnastics Building would also be provided as a stand alone prefab building on this Bunnerong Road side of the park.
- The Option provides for remediation of the site and subsequent reinstatement and improvements to landscaping.
- The funding sources (Section 94 development contributions, domestic waste levy and existing budget) will provide \$2.7M per year which will enable the commencement of landscape and building works in Year 2, with works ongoing over an 11 year period and in line with the staging program as detailed in this report. However, the timing of building and landscaping works may be accelerated (outside the staging plan) if/when funding from sporting groups or specific grants become available.

Next steps:

Once the preferred funding option has been determined, an action plan and works schedule in the draft Plan of Management can be finalised. The draft Plan of Management will then be referred to the Department of Lands for comment and any changes made. The draft Plan of Management will then be placed on public exhibition and any required changes made prior to seeking the Minister's final endorsement.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 5: Excellence in recreation and lifestyle opportunities

Direction 5a: Maximise opportunities for residents and visitors to enjoy both active and passive open space uses

FINANCIAL IMPACT STATEMENT:

Financial impacts are detailed within this report and the Funding Model (Attachment 4).

CONCLUSION:

Council adopted the Heffron Park Landscape Concept Plan which provides for significant improvements to the sporting fields and facilities, cycle paths, amenities buildings, pedestrian pathways and passive recreation areas. The Landscape Concept Plan will provide the basis of a draft Plan of Management for the Park, which, as a Crown Reserve, will require approval of the Minister for Lands.

Three funding options were exhibited for public comment during the exhibition of the Landscape Concept Plan, and Council resolved that further investigations into a broader range of funding options and staging be undertaken and reported back to Council. This report provided detailed costing of the landscape and building works and a combination of funding options.

Option 3Ai, which provides for all landscaping and works identified in the adopted Landscape Concept Plan at a level consistent with Heffron Park's status as a regional park, and includes a suitable range of funding sources (s94 development contributions, domestic waste levy and existing budget) is the recommended Option. The Option includes a \$4M upgrade of the Des Renford Aquatic Centre which would include the replacement of existing entrance and ancillary buildings with a similarly scaled new gym, aerobics area, crèche and new administration and entrance area. The Option allows for an indoor sports facility and gymnastics uses to remain on the Bunnerong Road side of the Park. The Option also has the flexibility of allowing acceleration of landscaping and building works (outside the staging program) where funds become available from sporting groups or associations and specific grants.

RECOMMENDATION:

That:

- a) Council endorse Funding Option 3Ai;
- b) Council note that the draft Heffron Park Plan of Management will include the details of Funding Option 3Ai and will be reported back to Council prior to public exhibition; and
- c) Council note that discussion with sports groups and associations and the University of New South Wales regarding funding and cooperation with grants applications will continue.

ATTACHMENT / S:

1. Requirements for Indoor Recreation Centre
2. Staging Maps
3. Details of Cost Elements of the Landscape Concept Plan
4. Funding Model

ALL UNDER SEPARATE COVER

.....
GENERAL MANAGER

Director, City Services' Report 81/2007



SUBJECT:	STATE GOVERNMENT FUNDING OF PUBLIC LIBRARIES

DATE:	14 November, 2007	FILE NO:	F2004/08383

REPORT BY: DIRECTOR, CITY SERVICES

INTRODUCTION:

The NSW Public Library Network is a cohesive, state-wide network based on cooperation between council public libraries and the State Library of NSW. Local Government meets 90% of the cost of the Network. (Reference from Public Libraries – Too Precious to Lose, Local Government Association of NSW, August 2007)

New South Wales State Government per capita funding of public libraries is the lowest in Australia, dropping from 23.6% in 1980 to its current level of 7.8%. The State Government provides just \$23.5m (2007-08) to support the 373 public libraries across the State. Local government contributes more than 10 times that amount to libraries, which are experiencing an increase in demand for their programs and services.

The Minister of the Arts, the Honourable Frank Sartor, has recently established a review of the current Public Library Funding Strategy, conducted by Dr Tom Parry. The library profession is concerned that this will lead to further cuts and wish to draw public attention to what is happening.

ISSUES:

Whilst there has been a commendable period of growth since 1995, where funding from the NSW State Government to the public library network increased by 40%, the level of funding is being eroded again¹. In the 2006/7 and 2007/8 budgets, library funding to NSW Councils was reduced by a total of \$1,270,990. A further \$258,023 (an extra \$1.85 per capita for all new residents in NSW as currently legislated) is being redistributed to high growth areas of the state. The reduction in funding this year has targeted the Library Development Grant program, making it an even more competitive process.

In response to the review and the decreasing levels of financial support for Public Libraries across NSW by the State Government, peak bodies are actively engaged in a lobbying programme based on raising community awareness of the current inadequate level of funding.

The Local Government and Shires Association have developed a campaign platform "Public Libraries – too Valuable to lose".

- One in two people in NSW are Public Library members and use our libraries 32 Million times each year
- Our state government provides the lowest funding to Public Libraries in Australia

- Services most at risk are: story times, home delivery, learning English, internet access, study and meeting places, opening hours, new books and branch libraries
- The young, old, culturally diverse and disadvantaged have the most to lose
- In a democratic society free libraries are everybody's right

The following resolution from the Executive at the Local Government and Shires Association Conference in October 2007 was unanimously endorsed:

'That the LGA call on the NSW Government to:

- Ensure no individual Councils are disadvantaged by any redistribution of public library funding.
- Ensure no further public library funding cuts are undertaken.
- Significantly increase the State's share of the total funding to local public library services to ensure it matches international and national benchmarks and meets unmet community demand for services, by enhancing the budget item Grants and subsidies – Library services by Councils and other organisations by \$5m per year for five years to reach a new recurrent target of \$51m per year in 2012'.

Following this resolution, Public Libraries, New South Wales – Country, have endorsed a Day of Action on 29 November 2007 to draw attention to the low level of State funding to public libraries in NSW. This includes a number of actions, from petitions, letters to Local Members, a one-day closure of libraries, reduction in services and wearing armbands to attendance at a protest rally in Sydney.

The President of Public Libraries – Metropolitan, on the other hand, has recommended that public libraries should await the outcome of the review before protesting and has asked metropolitan councils to follow this line of action. The President of Public Libraries – Country, feels that the day of action is about protesting cuts in funding and not just the current review of the funding model. Some metropolitan libraries are ignoring their Executive's position and following all or part of the country public libraries' strategy.

Current funding model

The current funding model is part of the Public Libraries Funding Strategy, which was revised in 2005 and delivered increased funding to all local government authorities. The strategy was endorsed by stakeholders, recommended by the Public Libraries Consultative Committee to the Library Council of NSW and accepted by the Minister for the Arts.

The adopted model was used in the 2006/07 Public Libraries Grants & Subsidies:

1	\$1.85 as prescribed (to Local Government)	\$12,525,760
2	Disability & Geographic Adjustments including Local Priority Grants (to Local Government)	\$6,130,088
3	NSW.net	\$1,940,000
4	Outback Letter Box library	\$100,000
5	Cooperative and Networking Activities	\$491,020
6	State Library Services to Public Libraries	\$278,190
7	Vision Australia (Royal Blind Society)	\$144,045
8	Library Development Grants	\$2,941,907
	Total	\$24,551,010

This model for the future allocation of funds was considered sustainable and scalable by all parties. In spite of this consensus, The Minister of the Arts, the Honourable Frank Sartor, has decided to review this strategy and appointed Dr. Tom Parry to examine and report on:

- Revenue raising potential of local government authorities by local government area (detailed for sources of revenue and demographic factors)
- Options for the most strategic application of State Government funding which would ensure this funding is directed towards areas of greatest need
- Any regulatory implications associated with these options
- Transitional arrangements including an implementation plan to guide the migration to a new more strategic system of funding
- Any other means by which library services may be enhanced in NSW
- Identification of special issues and anomalies

Submissions were invited to respond to the following questions:

- What should be the objective/s of State Government funding assuming that the total level will continue at current levels?
- What are the pros and cons of the per capita funding component?
- What 'disadvantage/disability' factors are most relevant to public library funding?
- What is the scope for more effective delivery of public library services from networking?
- What should library development grants be focussed on (if indeed they should be part of State Government funding)

Submissions were made by the peak bodies, regional and some individual Councils, emphasising the positives of the current funding model and highlighting the additional services that public libraries currently provide.

Concerns have been expressed by public libraries that a potential outcome of this review is a split in the funding model to give preferential funding to country councils who are considered to be needier than 'wealthier' inner city councils. Neither country nor metropolitan libraries approve of this split model as they recognize the value of operating as a network.

We are currently awaiting the outcome of the findings of this review.

RELATIONSHIP TO CITY PLAN:

Outcome 5: Excellence in recreation and lifestyle opportunities

Direction: Library programmes, resources and facilities provide innovative and inspirational opportunities for education and leisure

Key Actions: Our libraries will continue to be central to community involvement and interaction.

FINANCIAL IMPACT STATEMENT:

Still pending the outcome of the review; potential reduction of current subsidy based on a per capita calculation of \$235,758 per annum to Council, a Local Priority Grant of \$78,000, plus the Development Grant Funding process will be more competitive and it will be harder to win grants.

CONCLUSION:

The current low level of funding of public libraries by the State Government is a real issue and Council should be aware of the potential for further reductions with the current review of the funding model by the Minister of the Arts. A report will be brought to Council following the review, with recommendations for action, should it impact negatively on Council.

RECOMMENDATION:

That:

1. this report be received and noted; and
2. letters be sent to the NSW State Government Minister of the Arts and the local State Government Members of Parliament expressing concern over the funding situation.

ATTACHMENT /S:

Nil

.....
JORDE FRANGOPLES
DIRECTOR, CITY SERVICES

.....
BARBARA TODES
MANAGER, LIBRARY AND
COMMUNITY SERVICES

Director, City Services' Report 82/2007



SUBJECT:	FIBRO FRAGMENTS (ASBESTOS ISSUE)

DATE:	13 November, 2007	FILE NO:	F2004/07462

REPORT BY: DIRECTOR, CITY SERVICES

INTRODUCTION:

A report in relation to this matter was submitted to the 26 June 2007 Council Meeting and the Council resolved: "(Matson/Woodsmith) that the report be received and noted."

ISSUES:

Council conducted air monitoring (2nd round) at six locations in the Heffron Park on 18 October 2007, which includes the site boundaries, netball court and sand basin area. Six air sampling instruments have been installed at:

1. Netball Courts No. 1 & No. 2, on light pole;
2. Netball Court Administration Building, Fitzgerald Avenue, on light pole;
3. Sand Pit Drainage Basin, on RCC stationary vehicle;
4. Marist Amenities Building, Robey St, on light pole; and
5. Pump House, Aussie Rules field, Jersey Rd, Matraville, Tigers Amenities Building, cnr of Jersey & Bunnerong Rd. in the Heffron Park.

Sampling has been conducted by Pickford & Rhyder Consulting Pty Ltd and analysis in NATA endorsed laboratory. Filters have been examined in accordance with the April 2005 National Occupational Health & Safety Commission "Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Fibres" (2nd Edition), as per Laboratory Method MFM/1.

The results for airborne asbestos samples taken are below the detection limit of the method of 10 fibres per 100 fields or less than 0.01 fibres per millilitre of air, and are therefore completely satisfactory. These results indicate that no measurable amounts of airborne fibres were present.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 6:	A Liveable City.
Direction 6a:	Our public assets are planned, managed and funded to meet the community expectations and defined levels of service.
Key Action:	Assets are managed strategically to deliver intergenerational equity and to meet Council's obligation as the custodian of our community's assets.

FINANCIAL IMPACT STATEMENT:

The cost to complete the air monitoring is \$1,059.30 (GST Exclusive).

RECOMMENDATION:

That the report be received and noted.

ATTACHMENT /S:

1. Asbestos Monitoring Report
2. Certificate of Analysis - airborne Asbestos Fibres.

.....
JORDE FRANGOPLES
DIRECTOR, CITY SERVICES

.....
ZAMAN SHAMSUZ
ENVIRONMENTAL ENGINEER

ATTACHMENT 1

PICKFORD & RHYDER CONSULTING PTY LTD
ABN 17 105 546 076
Occupational Hygiene Measurements and Solutions.

PO Box 1422 Lane Cove 1595
Rear - 244 Burns Bay Road
Lane Cove NSW Australia
Phone: (02) 9418 9151
Fax: (02) 9418 9150

30 October 2007

Mr Md. Shasuzzaman
Environmental Management Officer
Randwick City Council (RCC)
192 Storey Street
MAROUBRA NSW 2035

Fax: (02) 9314 3649

Our Ref: RCC-071018-52138-44-ID-letter

Dear Zaman,

**2nd QUARTERLY ROUND of AIRBORNE ASBESTOS
MONITORING****HEFFRON PARK, MAROUBRA**

At your request, I visited Heffron Park, Maroubra on 18 October 2007 to conduct the second quarterly round of routine airborne asbestos fibre sampling after minor amounts of asbestos-cement (AC) fragments were found previously in Heffron Park.

Since the deposits were found a Management Plan has been written based on various assessment reports for the site. A comprehensive Asbestos Survey has been carried out to identify areas in the park where AC was present, and ground surface areas have been removed and remediated of AC fragments.

The purpose of the air sampling was to conduct air monitoring at site boundaries and in areas where AC contamination was prevalent, which were the netball court and sand-basin areas. The aim of the air monitoring was to confirm that the park environment contained negligible asbestos fibres in relation to health and safety concerns.

Attached, please find a NATA endorsed Certificate of Analysis, Reference 52138/44-ID, dated 22 October 2007 that gives results of airborne fibre measurements conducted at six locations in the Heffron Park area.

The results for airborne asbestos samples taken are below the detection limit of the method of 10 fibres per 100 fields or less than 0.01 fibres per millilitre of air, and are therefore completely satisfactory. These results indicate that no measurable amounts of airborne fibres were present.

Based on these findings, and the amount and nature of the asbestos-cement fragments, it can be stated that there has been no measurable risk to the health of the worker, park user or resident in relation to the asbestos-cement found at the site.

Yours faithfully,

Gary Conaty

ATTACHMENT 2

PO Box 1422 Lane Cove 1595
Rear - 244 Burns Bay Road
Lane Cove NSW Australia
Phone: (02) 9418 9151
Fax: (02) 9418 9150

22 October 2007

Mr Md. Shasuzzaman
Environmental Management Officer
Randwick City Council
192 Storey Street
MAROUBRA NSW 2035

Fax: (02) 9314 3649

CERTIFICATE OF ANALYSIS - AIRBORNE ASBESTOS FIBRES**YOUR REFERENCE/JOB No.:****TYPE OF SAMPLES:** Membrane filters - as sampled by Gary Conaty**SITE LOCATION:** RCC - Heffron Park, Maroubra**DATE SAMPLED:** 18 October 2007 **DATE RECEIVED:** 18 October 2007**OUR REFERENCE:** 52138/44

TEST METHOD: Filters examined in accordance with the April 2005 National Occupational Health & Safety Commission "Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Fibres" (2nd Edition), as per Laboratory Method MFM/1.

The samples were taken in locations identified as containing major asbestos-cement contamination in the Heffron Park survey carried out in May 2007 and site boundary areas:-

The samples were taken in the following locations approximately 2 to 3 metres above ground level:-

Sample No.	Lab No.	Location
A 51	52138	Netball Courts No. 1 & No. 2, on light pole
A 42	52139	Netball Court Administration Building, Fitzgerald Avenue, on light pole
A 13	52140	Sand Pit Drainage Basin, on RCC stationary vehicle
A 67	52141	Marcellan Amenities Building, Robey St, on light pole
A 56	52142	Pump House, Aussie Rules field, Jersey Rd
A 07	52143	Matraville Tigers Amenities Building, cnr of Jersey & Bunnerong Rds.
A 60	52144	Blank - control filter

The following airborne dust concentrations (fibres per millilitre of air) for the above samples have been calculated using sample durations and flowrates measured on site:-

Sample No.	Start Time (24 hour)	Duration (min)	Av Flowrate (L/min)	Results (fibres/filters)	Concentration (fibres/mL)
A 51	1115	265	2.00	1.5/100	<0.01
A 42	1145	220	2.00	0/100	<0.01
A 13	1130	235	1.99	0/100	<0.01
A 67	1135	235	1.98	1/100	<0.01
A 56	1138	220	2.00	0/100	<0.01
A 07	1140	215	2.00	1/100	<0.01
A 60	-	-	-	0/100	OK*

* 'OK' denotes a satisfactory result for the blank filter

Analysed by L. Malloy, Approved Counter and reported by:


Gary Conaty,
Approved Counter and Signatory.



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Page 1 of 1

Director, City Services' Report 83/2007



SUBJECT:	RENAMING OF SAMUEL TERRY AVENUE

DATE:	7 November, 2007	FILE NO:	F2004/07140

REPORT BY: DIRECTOR, CITY SERVICES

INTRODUCTION:

At the ordinary meeting of Council of 30 October 2007, The Mayor, Councillor Notley-Smith tabled a petition from some of the residents of Samuel Terry Avenue, Kensington. The petition asked for the street to be renamed Dowling Street.

ISSUES:

Dowling Street behind the sound barrier has recently been renamed Samuel Terry Avenue. The residents of what was then Dowling Street were invited to comment on the proposed name change. Of those that chose to comment at the time the majority were in favour of the name change.

Council at its Works Committee Meeting held on 13 March, 2007, considered the Director City Services' Report No 10/2007, regarding a suggestion from a local resident for Council to survey the residents of Dowling Street, Kensington, behind the sound barrier, asking for their views for a street name change.

It was resolved on the Motion of Councillor White and Councillor Andrews that:

- a) *a survey be prepared to ascertain the views of the local residents and owners in the vicinity of Dowling Street (behind the sound barrier) and a report be brought back to Council after the closing date;*
- b) *opinion be sought from Council's Heritage Planner regarding appropriate names for this section of Dowling Street, which reflect the history of the location; and*
- c) *the view of public authorities be obtained concerning the possible name change.*

Accordingly, a survey was forwarded to local residents and property owners of Dowling Street, Kensington, behind the sound barrier, seeking views and suggestions. An opinion was sought from Council's Heritage Planner regarding appropriate names for this section of Dowling Street which reflect the history of the location and also the views of public authorities were obtained concerning the possible name change.

The results of the survey were reported to Council at the Ordinary Council Meeting held on 25 May 2007.

It was then resolved on the Motion of Councillor Notley-Smith and Councillor Nash that:

“ in accordance with the Guidelines of the Geographical Names Board:

- a) Council advertise in the local paper the proposal to re-name Dowling Street, Kensington, behind the sound barrier, either “**Samuel** Avenue” or “**Samuel Terry** Avenue” and invite interested parties to make written submissions with their views of the suggested name in keeping with the history of the area;*
- b) Council notify the Geographical Names Board and other relevant public authorities of the proposal; and*
- c) a report is brought back to Council after the closing date of all submissions.’*

The comments that were received were then reported to Council at the Ordinary Council Meeting held on 28 August 2007.

Council then resolved on the Motion of Councillor Nash and Councillor Hughes that:

- a) the Part of Dowling Street, Kensington, located behind the Sound Barrier to be renamed Samuel Terry Avenue, Kensington;*
- b) the Geographical Names Board and all relevant authorities be advised of the renaming;*
- c) the renaming be advertised in the “Southern Weekly Courier”;*
- d) arrangements be made for the renaming to be gazetted;*
- e) appropriate signposting be arranged; and*
- f) the residents and owners of Dowling Street, Kensington, behind the Sound Barrier be advised of Council's decision. ‘*

Consequently, all the above have been completed and the road is officially known as Samuel Terry Avenue.

FINANCIAL IMPACT STATEMENT:

There is no financial impact for this matter.

CONCLUSION:

There are a number of steps that need to be undertaken to change the name of any road. There is also some inconvenience to the residents in the short term as their property address changes. As the road in question is now officially called Samuel Terry Avenue and a significant public consultation effort was undertaken before this occurred, it would seem prudent not to change the name of Samuel Terry Avenue. Any change now would lead to confusion and further difficulty to the residents of Samuel Terry Avenue.

RECOMMENDATION:

That the report be received and noted.

ATTACHMENT / S:

Nil

.....
JORDE FRANGOPLES
DIRECTOR, CITY SERVICES

.....
MARK SHAW
MANAGER, TECHNICAL SERVICES

Director, City Services' Report 84/2007



SUBJECT:	FUTURE OPTIONS FOR THE RECYCLING FACILITY

DATE:	15 November, 2007	FILE NO:	F2004/07280

REPORT BY: DIRECTOR, CITY SERVICES

INTRODUCTION:

Council closed its recycling facility at the Yarra Bay closed landfill and moved its operation to a new site at 15 Bumborah Point Road, Matraville in 2005. The site was leased from the Sydney Port Corporation under a 20-year lease agreement and developed to carry out Council's recycling activities.

The facility currently receives and processes Council's kerbside collected and dropped off green waste into mulch and composted mulch. In addition, the facility operates an environmental education centre and a dry recyclable drop-off centre.

This report outlines the issues the facility is currently encountering and analyses future options.

ISSUES:

Current Operation

The facility receives over 5,000 tonnes per year of Council collected and dropped off on site green waste. The material is shredded and converted into mulch or composted mulch, which is then used by Council for maintenance of its parks and gardens, and sold to external clients.

Council is leasing the site from the Sydney Port Corporation under a 20-year lease agreement. Current site rent is \$922,600 per annum subject to CPI adjustment. In addition, we hire certain equipment for shredding of the green waste at an annual cost of \$245,000.

The annual cost of operating the facility is currently \$2,005,773 including \$922,600 rent. Annual revenue is approximately \$896,000 per year (excluding internal transfers). Hence, Council is subsidising the facility to the value of \$1.2m per annum.

Financial Sustainability

An emerging trend in the industry is the market saturation of product. As more councils introduce green waste services, the availability of raw material has increased rapidly. The demand for bulk mulch in the Sydney Metropolitan Area, however remain relatively stable over the same period. The outcome for our business has

resulted in an oversupply of product that has required us to dispose to landfill from time to time.

We have recently stopped accepting incoming material from our local government customers. The combination of market shortcomings and the high rent of the current facility at Bumborah Point Road suggest that the ongoing financial sustainability of the business is poor.

Ultimately, the business would be viable if the current centre was not burdened with the rent of \$922,600 per annum, and the hire of equipment of \$245,000 per annum.

Environmental Sustainability

There are existing privately run facilities that Council may choose to dispose its green waste (subject to tender). Council may elect to buy back the amount of processed product mulch required for its operation. We can seek details from prospective tenders of their disposal methods.

Future Options

The following options are available to Council:

1. Status Quo

Continue operation of the facility that allows Council to recycle green waste and road construction waste along with operation of drop-off facility for access house-hold recyclables and an education centre. However, the rental costs for Council are high.

2. Close the facility and transfer operation to a suitable site

There is no site within Randwick City Council area available that can be developed to run all the current activities.

3. Development of an appropriate site

There are two sites that can be developed to run some of the current activities, namely, drop-off of green waste, access house-hold recyclables, metal, batteries and used oil, and operation of an education centre. In this option, Council will require to out-source green waste processing as do all the surrounding councils currently. Should Council decide to take this option, it will require Council to seek tenders for processing of green waste.

Sites for Modified Operation

Council's old night-soil site at Botany Road or Recycling Centre at 72 Perry Street, Matraville, can be developed and used as recycling facility to carry out access house-hold recyclables, metal, used oil and weekend green waste drop-off, and operation of an education centre.

1. Botany Road Site

This is an old night-soil site owned by Council and currently unused. The area of the site is about 0.16 ha and can be accessed by the residents via Botany Road if developed.

The site is zoned as 4B which allows waste activities. However, highly permeable soil conditions make the site subject to designated development. The site is compromised by adjoining residential dwellings.

2. Recycling Centre at Perry Street

The site is located at the industrial area of Matraville and is currently used as a recycling centre. The area of the site is about 0.20 ha and is easily accessible for the residents. Minor renovation of this site will allow operation of the drop-off of green waste, access house-hold recyclables, metal, batteries and used oil, and operation of an education centre.

This site is more suitable for the modified recycling activities.

Council has received a number of enquiries about subleasing the Bumborah Point Road Recycling facility, by operators within the Port Botany complex. Initial discussions with Sydney Ports have been held and advice has been received that approval to sublease or surrender the lease to another operator associated with the Port activity would be granted.

FINANCIAL IMPLICATIONS

Closure of the Recycling Facility at Bumborah Point Road will save Council \$922,600 per annum. Out-sourcing of green waste processing will cost about \$375,000 per year. Therefore, closure of the site will lead to a surplus of \$792,600 per year (after initial set up cost at Perry Street in Year 1). The Perry Street site will require approximately \$500,000 to upgrade.

CONCLUSION:

Council's Recycling Facility at Bumborah Point Road costs Council \$922,600 per year in rent.

There is no other site in the LGA, where the full operation of the facility can be transferred. However, modified recycling activities can be transferred to the Perry Street Recycling Centre. This will require Council to contract out green waste recycling.

If the lease agreement with the Sydney Port Corporation is terminated, modified recycling activity is transferred to the Perry Street Recycling Centre and green waste processing is contracted out, the overall saving will be about \$792,600 per year.

This will allow the Council to bring forward some of the contaminated site rehabilitation projects.

RECOMMENDATION:

That Council:

1. negotiates the sublease or terminates the lease agreement with the Sydney Port Corporation for use of the Bumborah Point Road site;
2. calls for tenders for the sublease of the Bumborah Point site, if required;
3. renovates Council's Recycling Centre at Perry Street to continue modified recycling and environmental education activities; and

4. seeks tenders for the processing of Council's green waste.

ATTACHMENT / S:

1. Existing site layout of Perry Street Recycling Centre
2. Concept design of Perry Street Recycling Centre
3. Location of Botany Road night-soil site
4. Concept design for Botany Road site

ALL UNDER SEPARATE COVER

.....
JORDE FRANGOPLES
DIRECTOR, CITY SERVICES

.....
TALEBUL ISLAM
COORDINATOR, WASTE SERVICES
MANAGEMENT

Director, Governance & Financial Services' Report 72/2007



SUBJECT:	EARLY CLOSING - CHRISTMAS/NEW YEAR 2007

DATE:	1 November, 2007	FILE NO:	F2004/06853

REPORT BY: DIRECTOR, GOVERNANCE & FINANCIAL SERVICES

INTRODUCTION:

In past years the Council offices have been closed early on Christmas Eve and New Years Eve.

ISSUES:

The following arrangements are proposed for the Christmas & New Year period this year:

- Monday 24 December 2007 – Council to close at 12 midday
- Monday 31 December 2007 – Council to close at 3.00pm.

The days in question are relatively quiet in terms of contact with the community and a number of staff take annual leave over this period. There will be a staff function on the afternoon of 24 December 2007 to celebrate the Christmas season and thank the staff for their efforts during 2007.

The early closing times will be advertised in the Mayoral column and notices will be displayed at the Council offices in order to minimise any inconvenience for members of the public.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 11: Excellence in staff management
 Direction 11a: A working environment that provides a strong platform for productivity and achievement and allows all staff to contribute to the best of their ability to achieving Councils outcomes.

FINANCIAL IMPACT STATEMENT:

There is no direct financial impact for this matter. There will, however, be a small loss in productivity on the days involved and there will also be a small cost involved in advertising the matter in the Mayoral column.

CONCLUSION:

Council offices have been closing early on the days in question for a number of years. Given adequate publicity, it is felt that the early closing will create minimal impact on Council's customer service levels.

RECOMMENDATION:

That the following arrangements for the 2007 Christmas/New Year period be noted:

- Monday 24 December 2007 – Council offices to close at 12 midday
- Monday 31 December 2007 – Council offices to close at 3.00pm.

ATTACHMENT /S:

Nil

.....
GEOFF BANTING
DIRECTOR, GOVERNANCE & FINANCIAL
SERVICES

.....
JULIE HARTSHORN
SENIOR ADMINISTRATIVE
COORDINATOR

Director, Governance & Financial Services' Report 73/2007



SUBJECT:	ARRANGEMENTS DURING CHRISTMAS/NEW YEAR PERIOD FOR DECISION MAKING & SCHEDULE OF MEETINGS FOR 2008

DATE:	31 October, 2007	FILE NO:	F2004/06565

REPORT BY: DIRECTOR, GOVERNANCE & FINANCIAL SERVICES

INTRODUCTION:

This report outlines the method for matters to continue to be processed during the Christmas/New Year meeting recess period and suggests a Council and Committee Meeting schedule for the forthcoming calendar year.

ISSUES:

A meeting schedule for the 2008 calendar year has been prepared (based on the practice of past years) and is attached for Council's endorsement.

Councillors should note that the Local Government Elections will be held on Saturday 27 September 2008 and the first meeting of the newly elected Council (an Extraordinary Meeting) has been scheduled for 14 October 2008 (the 2nd Tuesday in October).

Should the necessity arise for any meeting dates to be altered, the provisions of Council's policy - Council & Committee Meetings – Authority to vary dates & times - will be utilised (see attached).

It has been the practice for many years for the Council to take a recess following the last Ordinary Meeting in December, to give Councillors and officers the opportunity to either take a break over the Christmas holiday period or to finalise the year's activities and plan for the following twelve months. During previous recess periods, Council policy - Council in Recess Procedure (see attached) - prevailed. This policy provides a means of attaining decisions on urgent or important matters during the meeting recess and provides:

"The Mayor, the Chairpersons of the Health, Building & Planning Committee, the Administration & Finance Committee, the Community Services Committee and the Works Committee or in his or her absence (or if the Mayor is the Chairperson of the Committee) the Deputy Chairpersons and the General Manager jointly be authorised to make decisions which would otherwise be made by the Council and any such decisions are to be unanimous and circulated to Councillors for their information."

It is suggested that this policy be updated to reflect the renaming of the Health, Building & Planning Committee to the Planning Committee and to include the Chairperson of the Environment Committee in the decision making process.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 13:	Excellence in customer service
Direction 13b:	Council's policies, standards and processes are efficient, effective and support the provision of quality customer service.

FINANCIAL IMPACT STATEMENT:

There is no direct financial impact for this matter.

CONCLUSION:

Urgent and important Council business can be dealt with during the Christmas/New Year period, without the requirement for formal Council and Committee Meetings, by utilising Council policy – Council in Recess Procedure - during that time. Any matters that are unable to be dealt under the Council in Recess Policy, due to extenuating circumstances, could be dealt with at an Extraordinary Meeting.

RECOMMENDATION:

That:

- a) the Council Meeting recess commence following the Ordinary meeting scheduled to be held on Tuesday 11 December 2007 and meetings be resumed on Tuesday 12 February 2008 (with Committee meetings being held on that night) and during the recess period Policy No. 1.01.11 (Council in Recess – Procedure) be utilised, subject to the need for any Extraordinary Meetings which may be called in extenuating circumstances;
- b) that the Council in Recess – Procedure be amended to read as follows:

“The Mayor, the Chairpersons of the Planning Committee, the Administration & Finance Committee, the Community Services Committee, the Environment Committee and the Works Committee or in his or her absence (or if the Mayor is the Chairperson of the Committee) the Deputy Chairpersons and the General Manager jointly be authorised to make decisions which would otherwise be made by the Council and any such decisions are to be unanimous and circulated to Councillors for their information.”
- c) the Meeting Schedule for the 2008 calendar year be adopted.

ATTACHMENT / S:

1. Policy - Council in Recess Procedure.
2. Policy - Council & Committee Meetings – Authority to vary dates & times.
3. Council and Committee Meeting dates for 2008.

GEOFF BANTING
DIRECTOR, GOVERNANCE & FINANCIAL
SERVICES

JULIE HARTSHORN
SENIOR ADMINISTRATIVE
COORDINATOR



COUNCIL IN RECESS – PROCEDURE.

File No. F2005/00282 xr F2004/06565

OBJECTIVE

To provide a means of obtaining decisions on important or urgent Council matters at times of Council recess.

POLICY STATEMENT

That subject to other policies of the Council and to Section 377 of the Local Government Act 1993:-

The Mayor, the Chairpersons of the Health Building and Planning Committee, the Administration & Finance Committee, the Community Services Committee and the Works Committee or in his or her absence, (or if the Mayor is the Chairperson of the Committee) the Deputy Chairpersons and the General Manager jointly be authorised to make decisions which would otherwise be made by the Council and any such decisions are to be unanimous and circulated to Councillors for their information.

<u>Minute No:</u>	<u>386/1986</u>	<u>Meeting Date:</u>	12 August, 1986
Amended:	386/1993		12 September, 1993
	582/1993		14 December, 1993
	566/1994		18 October, 1994

577/1994
381/1996
264/1998
163/2000

22 November, 1994
10 December, 1996
24 November, 1998
5 September, 2000



**COUNCIL AND COMMITTEE MEETINGS –
AUTHORITY TO VARY DATES AND TIMES.**

Folder No: F2005/00282

OBJECTIVE

To allow flexibility in complying with the schedule of meeting dates and times for Council and Committee Meetings.

POLICY STATEMENT

That the General Manager is authorised to vary the schedule of meeting dates and times for meetings of Committees and the Council, when it is not practicable or desirable to hold meetings on a particular designated night to ensure that one meeting of each general committee and an Ordinary meeting of the Council is held each month, except for the month of January (289/1989 – 19/9).

Minute No: 427/1987
Amended: 289/1989

Meeting Date: 27 October, 1987
19 September, 1989

General Manager's Del. Auth.

Revised legislation-Policy No. 2.01.04 [No.14(ii)]
Local Government Act, 1993

COUNCIL AND COMMITTEE MEETING DATES FOR 2008					PUBLIC HOLIDAYS		
	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	
MON							MON
TUE	1 New Year's Day (Holiday)			1 Committee Agendas Issued			TUE
WED	2			2			WED
THU	3			3	1		THU
FRI	4	1		4	2		FRI
SAT	5	2	1	5	3		SAT
SUN	6	3	2	6	4	1	SUN
MON	7	4	3	7	5	2	MON
TUE	8	5 Committee Agendas Issued	4 Committee Agendas Issued	8 Committee Meetings	6 Committee Agenda Issued	3 Committee Agendas Issued	TUE
WED	9	6	5	9	7	4	WED
THU	10	7	6	10	8	5	THU
FRI	11	8	7	11	9	6	FRI
SAT	12	9	8	12	10	7	SAT
SUN	13	10	9	13	11	8	SUN
MON	14	11	10	14	12	9 Queen's Birthday (Holiday)	MON
TUE	15	12 Committee Meetings	11 Committee Meetings	15 Council Agenda Issued	13 Committee Meetings	10 Committee Meetings	TUE
WED	16	13	12	16	14	11	WED
THU	17	14	13	17	15	12	THU
FRI	18	15	14	18	16	13	FRI
SAT	19	16	15	19	17	14	SAT
SUN	20	17	16	20	18	15	SUN
MON	21	18	17	21	19	16	MON
TUE	22	19 Council Agenda Issued	18 Council Agenda Issued	22 Council Meeting	20 Council Agenda Issued	17 Council Agenda Issued	TUE
WED	23	20	19	23	21	18	WED
THU	24	21	20	24	22	19	THU
FRI	25	22	21 Good Friday (Holiday)	25 Anzac Day (Holiday)	23	20	FRI
SAT	26 Australia Day	23	22 Easter Saturday	26	24	21	SAT
SUN	27	24	23 Easter Sunday	27	25	22	SUN
MON	28 Australia Day (Holiday)	25	24 Easter Monday (Holiday)	28	26	23	MON
TUE	29	26 Council Meeting	25 Council Meeting	29	27 Council Meeting	24 Council Meeting	TUE
WED	30	27	26	30	28	25	WED
THU	31	28	27		29	26	THU
FRI			28		30	27	FRI
SAT			29		31	28	SAT
SUN			30			29	SUN
MON			31			30	MON

COUNCIL AND COMMITTEE MEETING DATES FOR 2008					PUBLIC HOLIDAYS		
	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	
MON			1			1	MON
TUE	1 Committee Agendas Issued		2 Committee Agendas Issued			2 Committee Meetings & Council Agenda Issued	TUE
WED	2		3	1		3	WED
THU	3		4	2		4	THU
FRI	4	1	5	3		5	FRI
SAT	5	2	6	4	1	6	SAT
SUN	6	3	7	5	2	7	SUN
MON	7	4	8	6 Labor Day (Holiday)	3	8	MON
TUE	8 Committee Meetings	5 Committee Agendas Issued	9 Committee Meetings	7	4 Melbourne Cup Day & Committee Agendas Issued	9 Council Meeting	TUE
WED	9	6	10	8	5	10	WED
THU	10	7	11	9	6	11	THU
FRI	11	8	12	10 Extraord Council Agenda Issued	7	12	FRI
SAT	12	9	13	11	8	13	SAT
SUN	13	10	14	12	9	14	SUN
MON	14	11	15	13	10	15	MON
TUE	15 Council Agenda Issued	12 Committee Meetings	16 Council Agenda Issued	14 Extraord Council Meeting (Elect Mayor & Deputy Mayor) & Council agenda issued	11 Committee Meetings	16	TUE
WED	16	13	17	15	12	17	WED
THU	17	14	18	16	13	18	THU
FRI	18	15	19	17	14	19	FRI
SAT	19	16	20	18	15	20	SAT
SUN	20	17	21	19	16	21	SUN
MON	21	18	22	20	17	22	MON
TUE	22 Council Meeting	19 Council Agenda Issued	23 Council Meeting	21 Council Meeting	18 Council Agenda Issued	23	TUE
WED	23	20	24	22	19	24	WED
THU	24	21	25	23	20	25 Christmas Day	THU
FRI	25	22	26	24	21	26 Boxing Day	FRI
SAT	26	23	27 Local Government elections	25 LGA Conference	22	27	SAT
SUN	27	24	28	26 LGA Conference	23	28	SUN
MON	28	25	29	27 LGA Conference	24	29	MON
TUE	29	26 Council Meeting	30	28 LGA Conference	25 Council Meeting & Committee Agendas Issued	30	TUE
WED	30	27		29 LGA Conference	26	31 New Year's Eve	WED
THU	31	28		30	27		THU
FRI		29		31	28		FRI
SAT		30			29		SAT
SUN		31			30		SUN

Director, Governance & Financial Services' Report 74/2007



SUBJECT:	2007/08 - BUDGET REVIEW AS AT 30 SEPTEMBER 2007

DATE:	2 November, 2007	FILE NO:	F2006/00690

REPORT BY: DIRECTOR, GOVERNANCE & FINANCIAL SERVICES

INTRODUCTION:

Section 203 (1) of the Local Government (General) Regulation 2005 requires that at the end of each quarter, a Budget Review Statement be prepared and submitted to Council that indicates the latest estimates of income and expenditure for the 2007/2008 year.

The regulation (Section 203 (2)) also requires that the budget review statement must include, or be accompanied by:

- I. A report as to whether or not the responsible accounting officer believes that the Statement indicates that the financial position of the Council is satisfactory, having regard to the original estimate of income and expenditure; and
- II. If that position is unsatisfactory, recommendations for remedial action.

ISSUES:

This report is a review of the Council's 2007/2008 current budget and recommends adoption of a revised budget for 2007/2008.

It proposes variations to Council's adopted budget, which will result in a projected surplus at year end of **\$12,332**. Major variations to the budget are highlighted below.

FINANCIAL POSITION	\$
Original projected deficit / (surplus)	(10,698)
Variations Proposed This Review	
Increase in Expenditure	125,000
Decrease in Expenditure	(142,851)
Increase in Income	(373,157)
Decrease in Income	389,374
Total Variations This Review	(1,634)
Projected deficit / (surplus) as at 30 September 2007	(12,332)

Attachments 1 to 2 summarised Council's Financial Performance, Source and Application of Funds and Council's Statement of Financial Position.

Comments on all variations are listed in the table below. Attachment 3 contains a schedule of all proposed variations.

PROPOSED BUDGET VARIATIONS

	Increase / (Decrease) in Expenditure	(Increase) / Decrease in Income
<u>INCREASE IN EXPENDITURE</u>		
1. <u>Works Depot Materials & Contracts</u>	125,000	
Treatment of contaminated soil due to Fuel Pump Removal at Depot.		
<u>DECREASE IN EXPENDITURE</u>		
2. <u>Workers Compensation Premium</u>	(92,851)	
Rebate from WorkCover.		
3. <u>Environmental Levy – Sustainability Strategy</u>	(50,000)	
Part funding for removal of contaminated soil at Depot Fuel Pump.		
<u>INCREASE IN INCOME</u>		
4. <u>Residential & Business Rates Levy</u>		(141,891)
Increase in income due to additional supplementary levies.		
5. <u>Compulsory Pensioner Rebates</u>		(50,000)
Reduction in pensioner claims.		
6. <u>Financial Assistance Grant</u>		(81,211)
Additional FAG funding received.		
7. <u>City Planning Directorate – Legal Costs Recovery</u>		(18,500)
Additional income due to recovery of legal costs.		
8. <u>Development Assessment Notification Fees</u>		(80,000)
Additional income from increased level of notifications.		
9. <u>Financial Operations Fees Other Operating Contributions – Staff Uniforms</u>		(1,555)

	Increase / (Decrease) in Expenditure	(Increase) / Decrease in Income
Additional income received and contributions from staff for uniforms.		
<u>DECREASE IN INCOME</u>		
10. <u>\$600 Rebates</u> Budget set on 06/07 plus rate pegging. Actual reflects changes in valuation following re-valuations.		50,720
11. <u>Interest on Investments</u> Investment performance downturn following market reaction to US sub-prime crisis.		150,000
12. <u>Pensioner Rates Subsidies</u> Reduction in pensioner claims, resulting in reduction in subsidies.		56,221
13. <u>Construction Zone Fees</u> Forecasted actual revenue is less than budget		50,000
14. <u>Moverly Child Care Fees</u> Given number of places and fees charged, forecasted revenue is less than budget		40,000
15. <u>Subdivision Fees</u> Delay in expected subdivisions in Prince Henry.		40,000
16. <u>Ex Gratia Rates</u> Actual income now finalised.		2,433

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome: Outcome 1: Leadership in Sustainability.
Direction: 1c: Long term financial viability is achieved.

FINANCIAL IMPACT STATEMENT:

The proposed variations listed in this report and in Attachment 3 will result in a projected surplus at year end of **\$12,332**.

CONCLUSION:

Council's Director Governance & Financial Services as the responsible accounting officer, advises that the projected financial position is satisfactory.

RECOMMENDATION:

That:

- a) the report in relation to the September 2007 budget review be received and noted; and
- b) the proposed September 2007 budget variations shown in Attachment 3 to this report be adopted.

ATTACHMENT /S:

- 1. Income Statement & Source and Application of Funds
- 2. Statement of Financial Position
- 3. Budget variations - ALL UNDER SEPARATE COVER.

.....
GEOFF BANTING
DIRECTOR, GOVERNANCE & FINANCIAL
SERVICES

Director, Governance & Financial Services' Report 75/2007



SUBJECT:	COUNCILLORS' EXPENSES & FACILITIES POLICY

DATE:	8 October, 2007	FILE NO:	F2005/00282 & F2004/06576

REPORT BY: DIRECTOR, GOVERNANCE & FINANCIAL SERVICES

INTRODUCTION:

Section 252 of the Local Government Act requires Councils to adopt a policy for the payment of expenses incurred by and the provision of facilities to Mayors, Deputy Mayors and other Councillors. Mayors, Deputy Mayors and Councillors can only be reimbursed for expenses and provided with facilities in discharging the functions of civic office, in accordance with this policy.

The policy must be adopted annually, within five (5) months after the end of each year must be forwarded to the Department of Local Government (DLG) by 30 November 2007.

ISSUES:

The DLG issues 'Guidelines for the Payment of Expenses and the Provision of Facilities to Mayors and Councillors.' The Guidelines have been adopted under the provisions of sections 23A and 252(5) of the *Local Government Act 1993* as Director General's Guidelines. As such, Councils must comply with these Guidelines when preparing and adopting an expenses and facilities policy under sections 252-254 of the Act.

The Councillors' Expenses & Facilities Policy was reviewed in light of the Guidelines at the 28 November 2006 Council Meeting and a number of minor amendments were made to the policy at that time. Amended guidelines were issued by the DLG in May 2007. The new guidelines detail the additional annual reporting requirements, which are as follows:

From the 2006/2007 financial year, Councils are required to report separately on;

- The cost of the provision of dedicated office equipment allocated to Councillors on a personal basis, such as laptop computers. Mobile phones, telephones and facsimile machines and internet installed in Councillors' homes (including line rental and internet access). This item does not include the costs of using this equipment, such as calls
- The cost of phone calls including mobiles, home located landlines, facsimile and internet services
- Spouse/partner/accompanying person expenses (in limited circumstances)
- Conference and seminar expenses
- Training and skill development expenses

- Interstate travel expenses (including subsistence and out-of-pocket expenses)
- Overseas travel expenses (including subsistence and out-of-pocket expenses)
- Carer and other related expenses (of dependants to enable a Councillor to undertake his/her civic functions).

Council is reminded that:

- Under section 252(5) of the *Local Government Act 1993*, Council's Expenses and Facilities Policy must comply with the DLG Guidelines
- Provisions made by the policy in regard to the payment of expenses and the provision of facilities to Councillors, must be acceptable to and meet the expectations of the local community
- Policies must not include a general expenses or allowance clause. All expenses payments must be either reimbursed after the event or reconciled if an advance payment is made. The Guidelines clarify that procedures for reconciliation of expenses is discretionary and up to individual Councils to determine. The level of supporting documentation should be commensurate with the nature of the expenditure
- Limits to expenses and the level of provision of equipment and facilities must be set by individual Councils to suit their need and capacity to afford them
- There are no circumstances in which legal expenses should be met by a Council for proceedings initiated by a Councillor. Nor should legal expenses be met for a Councillor defending any action in a matter not rising directly as a result of his or her civic duty.

It is not necessary that any substantial amendments be made to the current Expenses & Facilities Policy as a result of the revised Guidelines. Some minor amendments have been made (as points of clarification), but the amendments are not substantial and will not require re-advertising.

RELATIONSHIP TO CITY PLAN:

There is no relationship with the City Plan.

FINANCIAL IMPACT STATEMENT:

There is no direct financial impact for this matter.

CONCLUSION:

It is recommended that the Councillors' Expenses & Facilities Policy (copy attached – with amendments underlined) be adopted and that the policy be forwarded to the DLG in accordance with legislative requirements.

RECOMMENDATION:

That the Councillors' Expenses & Facilities Policy be adopted and submitted to the Department of Local Government in accordance with legislative requirements.

ATTACHMENT /S:

1. Councillors' Expenses & Facilities Policy.

2. Guidelines for the payment of expenses & the provision of facilities to Mayors and Councillors for Local Councils in NSW (UNDER SEPARATE COVER).

.....
GEOFF BANTING
DIRECTOR, GOVERNANCE & FINANCIAL
SERVICES

.....
JULIE HARTSHORN
SENIOR ADMINISTRATIVE
COORDINATOR

Attachment 1

COUNCILLORS' EXPENSES & FACILITIES POLICY



Responsibility: Administrative Services
Adopted: 15 February, 1994
Last updated: 27 February 2007
Next review date: October 2008
TRIM Folder: F2004/06576

COUNCILLORS' EXPENSES AND FACILITIES POLICY

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PART 1 - PRELIMINARY**(i) Citation**

This policy is in accordance with the requirements of the *Local Government Act, 1993* and also the 'Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW' (issued by the NSW Department of Local Government), and may be cited as the "Councillors' Expenses and Facilities Policy".

(ii) Commencement

This policy was initially adopted by Council on 15th February, 1994.

(iii) Purpose of the policy

To ensure that there is accountability and transparency in the reimbursement of expenses incurred or to be incurred by Councillors. The policy also ensures that the facilities provided to assist Councillors to carry out their civic duties are reasonable.

(iv) Policy objectives

- ☐ To ensure that the fees paid, civic expenses reimbursed and facilities provided to the Mayor, Deputy Mayor and Councillors are appropriate to the importance of the Office and are consistently applied and transparent.
- ☐ To ensure that no Councillors suffer hardship by reason of meeting their civic responsibilities as an elected person.
- ☐ To adequately reimburse Councillors for expenses incurred in the performance of their duties, including expenses incurred in becoming adequately informed on subjects relevant to their civic duties.

(v) Reporting requirements

Section 428(2)(f) requires a council to include in its Annual Report:

- ☐ Council's policy on the provision of facilities for, and the payment of expenses to Councillors
- ☐ The total amount of money expended during the year on providing those facilities and paying those expenses
- ☐ Additional information as required by the Local Government (General) Regulation 2005.

Additional annual reporting requirements

Clause 217 of the Local Government (General) Regulation 2005 requires Councils to include the following, additional reporting information in their annual reports:

- ☐ The total cost of expenses and the provision of facilities for the Mayor and all Councillors
- ☐ The cost of the provision of dedicated office equipment allocated to Councillors on a personal basis such as laptop computers, mobile phones, telephones and facsimile machines and internet installed in the Councillors' homes (including line rental and internet access).
- ☐ The cost of phone calls including mobiles, home located landlines, facsimile and internet services

- ☐ Spouse/partner/accompanying person expenses (limited to the circumstances outlined on page 14 of the 'Guidelines for the payment of expenses and the provision of facilities to Mayors and Councillors for Local Councils in NSW')
- ☐ Conference and seminar expenses
- ☐ Training and skill development expenses
- ☐ Interstate travel expenses (including subsistence and out-of-pocket expenses)
- ☐ Overseas travel expenses (including subsistence and out-of-pocket expenses)
- ☐ Care and other related expenses (of dependants to enable a Councillor to undertake his or her civic functions).

Section 12 of the Local Government Act provides that the public is entitled to inspect the Council's policy concerning the payment of expenses incurred by, and the provision of facilities to, Councillors, free of charge, and may obtain a copy, either free of charge or on payment of reasonable copying charges.

(vi) Legislative provisions

This policy is made under section 252 of the *Local Government Act, 1993* and in accordance with clause 403 of the *Local Government (General) Regulation 2005*.

Within five (5) months after the end of each year, a Council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the Mayor, the Deputy Mayor and the other Councillors in relation to discharging the functions of civic office.

Within 28 days after adopting a policy or making an amendment to its Councillors' Expenses & Facilities Policy, Council is required to forward the following information to the Director-General of the Department of Local Government:

- ☐ A copy of the policy or amendment
- ☐ Details of all submissions received during the public exhibition period
- ☐ A statement setting out, for each submission, the Council's response to the submission and the reasons for the Council's response
- ☐ A copy of the public exhibition notice.

(vii) Other Government policy provisions

- ☐ Department of Local Government – Guidelines for payment of expenses and provision of facilities
- ☐ Model Code of Conduct
- ☐ Department of Local Government – Circulars to Councils
- ☐ Independent Commission Against Corruption (ICAC) publications.

Councillors should be aware of and take account of the Independent Commission Against Corruption (ICAC) publication *No Excuse for Misuse, preventing the misuse of Council resources (Guidelines 2)* November 2002. This publication is available on the ICAC website at www.icac.nsw.gov.au.

PART 2 - CONFERENCES, SEMINARS AND VISITATIONS (Including Sister City relationships)**Conferences, seminars, courses within NSW**

- (i) Councillors may attend conferences, seminars and accredited training and education courses within NSW without the approval of the Council.

However, approval to attend conferences, seminars and accredited training and education courses within NSW must be determined by the Mayor and the General Manager upon a written request by the individual Councillor wishing to attend a conference, etc, stating the reasons why he or she wishes to attend and what benefits it will bring to the Council.

The Mayor may attend conferences in NSW as necessary without approval.

- (ii) The Mayor and Councillors may attend conferences, seminars and accredited courses outside NSW only with approval of the Council, and shall submit a written request for this purpose stating the reasons why he or she wishes to attend and what benefits it will bring to the Council.
- (iii) Further, all Councillors are eligible to attend the Annual Conference of the NSW Local Government Association and all female Councillors are eligible to attend the Annual Australian Local Government Women's Association's NSW Branch Conference.
- (iv) The council will pay all normal registration costs which are charged by organisers including the cost of related official luncheons, dinners and tours which are relevant to the interest of the Council or assist Councillors to discharge the functions of their civic office.
- (v) Full economy airfare will be used by Councillors travelling to and from conferences, except where a Councillor indicates he/she is confident that no changes will be made to the proposed itinerary in which case a review of the cheapest fares available will be undertaken. Further, in all cases, advantage be taken of special conference discount fares to achieve significant economies in travel expenses.
- (vi) If a private motor vehicle is used the "mileage" allowance will be paid at the then current rate set by the NSW Local Government (State) Award.

If a Councillor decides to drive his/her own vehicle to an intrastate or interstate conference, the mileage allowance payable to that individual is not to exceed the return economy class air fare for travel to the destination in question.

Costs of vehicle hire and/or taxi fares which are reasonably incurred while attending conferences will be reimbursed by the Council.

- (vii) Reasonable accommodation costs, including the night before and/or after the conference where this is necessary, will be met by the Council for conferences and seminars outside the Sydney metropolitan area.
- (viii) No advance sustenance allowance will be made, but reasonable business out-of-pocket expenses will be reimbursed for costs associated with attending the conference, seminar, meeting or function. Reasonable out-of-pocket expenses

will be limited to: parking fees; taxi fares; meals not included in the conference program and the reasonable cost of drinks accompanying a meal. Council will not meet the cost of laundry or the cost incurred for the use of a bar-fridge in a hotel room.

- (ix) Where the attendee is accompanied by his or her spouse/partner, the Council will not pay for any cost supplement involved in the accommodation. All costs for the spouse/partner (including travel, tours, meals etc.) are to borne by the attendee.
- (x) Any visitations to, and travel and accommodation costs associated with, sister city arrangements by Randwick Councillors must be approved by a Council Meeting prior to acceptance of any invitations, and any gifts or benefits associated with such visits by both parties shall show full regard to the requirements of both Councils' Codes of Conduct.

Councillors may request payment in advance in anticipation of expenses to be incurred in attending conferences, seminars and training away from home.

However, Councillors must fully reconcile all expenses against the cost of the advance within three (3) months of returning or incurring the expenses (whichever is the latter).

Incidental conference, seminar and visitation expenses include telephone and facsimile calls, refreshments, internet charges, laundry and dry cleaning, newspapers, taxi fares and parking fees and meals not included in any conference/seminar program.

For travel within NSW, a daily meal and an incidental expenses limit of \$150.00 per Councillor will apply.

Claims for reimbursement of conferences/seminars/courses expenses must be submitted on the claim form attached to this policy. Expenses must be claimed within three (3) months of returning from a trip or within three (3) months of the expense being incurred (whichever is the latter).

Interstate & overseas travel

Council will pay the same expenses as detailed above (for conferences within NSW) for Councillors travelling interstate and overseas on Council business only if Council resolves (at a meeting of the full Council) that such travel be undertaken. The proposal will be considered at an Open Council Meeting through a report from the General Manager. Travel proposals will be included in Council business papers. The use of Mayoral Minutes to obtain approval for travel is not appropriate as it is not consistent with principles of openness and transparency.

Council reports in relation to overseas travel are to indicate:

- ☐ The total cost of the travel and a break-down of the total cost into the following areas - transport, accommodation and out-of-pocket reimbursement of expenses per person (including any amounts expected to be reimbursed by participants).
- ☐ Who is to take part in the travel;
- ☐ The length of the stay overseas;

- ☐ The purpose of the travel and the objectives to be achieved in undertaking the travel, including an explanation of what community benefits are expected as a result of the travel;
- ☐ Where exceptional cases arise for overseas travel (ie. the travel has not been documented in Council's adopted Management Plan) and travel has to be undertaken at short notice, the report to the Council will include why the travel is considered to be exceptional.

If the trip is to be sponsored by private enterprise, ICAC guidelines and reporting structures shall be followed.

Councillors may request payment in advance in anticipation of expenses to be incurred in attending conferences, seminars and training away from home.

However, Councillors must fully reconcile all expenses against the cost of the advance within three (3) months of returning or incurring the expenses (whichever is the latter).

Incidental conference, seminar and visitation expenses include telephone and facsimile calls, refreshments, internet charges, laundry and dry cleaning, newspapers, taxi fares and parking fees and meals not included in any conference/seminar program.

For interstate and overseas travel, a daily meal and an incidental expenses limit will apply and will be in accordance with the Australian Taxation Office determination in relation to reasonable travel and meal allowance expense amounts, provided that such expenses are subject to a period of stay not exceeding the period for the conference or authorised business plus one day each way for travelling.

[Note: the Ruling for the 2005-2006 financial year is TD 2005/32 and is available on the ATO Legal Database at www.ato.gov.au. The median salary range will be used].

Claims for reimbursement of conferences/seminars/courses expenses must be submitted on the claim form attached to the policy. Expenses must be claimed within three (3) months of returning from a trip or within three (3) months of the expense being incurred (whichever is the latter).

PART 3 - PROVISION OF FACILITIES & SPECIFIC EXPENSES FOR COUNCILLORS

Councillors are entitled to receive:

- (i) A Councillor's Fee (Allowance) to be set by Council annually following determination by the Remuneration Tribunal.
- (ii) An expandable attaché case with combination lock (Dimensions 44.5cm, x 31.8cm x 10cm) as per the current State Government Contract or South Sydney Regional Organisation of Councils' Purchasing Agreement.
- (iii) Stationery items limited to letterheads, business cards (bearing coloured personal photographs if requested), "With Compliments" slips and envelopes, for use on Council business and subject to reasonable limits as determined by the General Manager.
- (iv) A maximum of 300 Christmas Cards per Councillor per annum for use in a Councillor's official role as an elected member. The cards to be arranged and ordered by Council staff in accordance with budgetary limits.
- (v) The cost of postage associated with mail sent by Councillors, in the course of carrying out their civic duties, to their constituents will be borne by the Council to a maximum of \$600 per Councillor per annum, including the postage costs for the up to 300 Christmas cards supplied to Councillors in accordance with Part 5, Clause (xvii) of this Code (see below).
- (vi) Councillors' name badges.
- (vii) Secretarial support when required on Council matters.
- (viii) Cabcharge facilities, use of a Council driver upon request or reimbursement for use of private vehicles (in accordance with the NSW Local Government (State) Award). Councillors will be reimbursed for out-of-pocket travel expenses incurred in attending approved courses, conferences, seminars, Council or Council Committee Meetings, authorised Council inspections or other authorised business of the Council (including travel to any organization to which a Councillor has been appointed as a delegate or any other activity that has been authorised by the Council).
- (ix) Meals and refreshments following meetings of Council and its Committees.
- (x) Access to Council's Policy Register and other necessary codes required for reference purposes.
- (xi) A copy of the Local Government Act and Regulations, the Environmental Planning and Assessment Act and Building Code of Australia in the Councillors' Rooms.
- (xii) Access, to a shared Councillors' Rooms in the Town Hall.
- (xiii) Councillors may be reimbursed for the reasonable cost of carer arrangements, including childcare expenses and the care of elderly, disabled and/or sick immediate family members of Councillors, to allow Councillors to undertake their Council business obligations (including attending Council or Committee meetings), subject to a limit of \$1,200 per Councillor per annum.

- (xiv) A laptop computer, as per the current State Government Contract, with specification and configuration necessary to access and utilise appropriate Council systems. Laptops will be provided with: Windows operating system; standard Microsoft Office package; anti-virus software; and facilities to enable dial-up to Council. No unauthorised or unlicensed software is to be installed on the laptops and Councillors are required to comply with Council's Internet & Email Usage Policy at all times, when using Council's laptops.
- (xv) The following office equipment to facilitate communication between Councillors, Council's administration and residents, with Council responsible for equipment, rental, maintenance, consumables and service charges and costs:
- a) A fax phone/printer/copier/scanner unit incorporating handset and answering machine or equivalent as per the current State Government Contract and Council will arrange and pay for the installation of a telephone line at each Councillor's place of residence (if required) to facilitate the operation of the phone/printer/copier/scanner unit and meet all necessary installation and connection costs. A Maximum of \$200 per Councillor per month to be borne by Council for call costs;
&
 - b) A mobile phone with rental and maintenance to be paid by Council, but with a maximum of \$300 per Councillor per month to be borne by Council for call costs;
&
 - c) A person pager and paging service;
&
 - d) An additional telephone landline (if required) with rental and call costs to be paid by Council, but with a maximum of \$200 per Councillor per month to be borne by Council for call costs.

The above mentioned "office equipment" to be updated periodically, as and when considered appropriate by the General Manager.

- (xvi) All equipment remains the property of Council and is returnable on a Councillor ceasing to hold office. However, Councillors not seeking re-election, resigning or defeated at the Poll may request to retain/purchase these items. The General Manager shall consider each request and determine an appropriate price, having regard to Council's policy on disposal of "minor value" assets under the Disposal of Assets Policy and Procedures.

Payment for the purchase of the equipment must be made within 7 working days of the determined price being conveyed to the Councillor.

- (xvii) From within the Councillors' Rooms in the Town Hall, access to external E-mail and internet facilities and internal E-mail with staff appearing on the

Councillor/Staff Liaison Listing (as periodically issued by the General Manager). Further, Council will pay each Councillor up to \$50 per month for expenses relating to the provision of internet facilities at their private residences, as arranged by them with their external internet provider.

- (xviii) Reimbursement for reasonable expenses incurred by a Councillor in attending functions if officially invited to functions/events representing the Council.

- (xix) Expenses of a Councillor's spouse/partner and accompanying persons in the following circumstances:
- a. Where the reasonable expenses of the spouse/partner have been met by the Councillor; and
 - b. The Councillor's spouse/partner has been officially invited to and has accompanied the Councillor to a function/event; and
 - c. The function relates to the discharge of the civic functions of the Councillor; and
 - d. The attendance of the Councillor's spouse/partner/accompanying person at the function(s) is considered reasonable necessary or appropriate in order for the Councillor to fulfil his/her statutory role (eg. Where the Councillor is hosting a reception, or the attendance of the Councillor and his/her spouse/partner/accompanying person as official guests at a local function to which guests are invited with their respective spouses/partners/accompanying person and the Councillor is representing the Council at the function.

An accompanying person is a person who has a close personal relationship with the Councillor and/or provides carer support to the Councillor.

This reimbursement does not extend to functions where the attendance of the Councillor's spouse, partner or accompanying person may be convenient, but could not be properly seen as relating to the discharge of functions of civic office (eg. Attendance at seminars, conferences and the like, with the exception of the Annual Conference of the Local Government Association).

The payment for spouses, partners and accompanying persons for attending appropriate functions (as detailed above) will be confined specifically to the ticket, meal and/or the direct cost of attending the function. Peripheral expenses incurred by spouse, partners or accompanying persons such as grooming, special clothing and transport are not considered reimbursable expenses.

Limited expenses of spouses, partners or accompanying persons associated with attendance at the Local Government Association's annual conference will be met by Council. These expenses are limited to the cost of registration and the official conference dinner. Travel expenses, any additional accommodation expenses, and the cost of partner/accompanying person tours etc are the personal responsibility of individual Councillors.

In all other circumstances, all costs, including any additional accommodation costs, must be met by the Councillor the spouse/partner/accompanying person.

Note: Councillors must seek reimbursement for their expenses within the financial year in which they were incurred or within three (3) months of incurring the expense(s), whichever is the later.

PART 4 – PROVISION OF ADDITIONAL FACILITIES & SPECIFIC EXPENSES FOR THE MAYOR

The Mayor is entitled to receive:

- (i) A Mayoral Fee (Allowance) to be set by Council annually following determination by the Remuneration Tribunal.
- (ii) Full private use of the Council's Mayoral vehicle (which is fully serviced and maintained by Council) and including the provision of a fuel card for the Council vehicle. Standard class vehicle shall be a Holden Senator (or similar class) sedan or equivalent, with conditions of use being generally in accordance with Council's "Private Use Policy" for motor vehicles.
- (iii) An allotted car parking space at the Council premises.
- (iv) A mobile telephone (and car kit) with the rental and maintenance, to be paid by the Council, but with a limitation of \$400 per month as the maximum call cost to be borne by the Council.
- (v) Mayoral name badges.
- (vi) Chauffeur services when required on Council matters.
- (vii) Office accommodation at the Town Hall and standard business equipment. The provision of a refreshment cabinet in the Mayor's Office maintained and stocked by the Council within budgetary limits.
- (viii) Secretarial services provided from within Council.
- (ix) A copy of the Local Government Act and Regulations in the Mayor's Office.
- (x) Use of the Mayoral Robes and Mayoral Chain of Office while acting in the official capacity of Mayor.
- (xi) Reimbursement for reasonable expenses incurred by the Mayor in attending functions or performing duties in the role of Mayor.
- (xii) Expenses of the Mayor's spouse/partner and accompanying persons in the following circumstances:
 - a. Where the reasonable expenses of the spouse/partner have been met by the Mayor; and
 - b. The Mayor's spouse/partner/accompanying person has been officially invited to and has accompanied the Mayor to a function/event; and
 - c. The function relates to the discharge of the civic and/or ceremonial functions of the Mayor; and
 - d. The attendance of the Mayor's spouse/partner/accompanying person at the function(s) is considered reasonable necessary or appropriate in order for the Mayor to fulfil his/her statutory role (eg. Where the Mayor is hosting a ball or reception, or the attendance of the Mayor and his/her spouse/partner/accompanying person as official guests at a local function to which guests are invited with their respective spouses/partners/accompanying person.

An accompanying person is a person who has a close personal relationship with the Councillor and/or provides carer support to the Councillor.

This reimbursement does not extend to functions where the attendance of the Mayor's spouse or partner may be convenient, but could not be properly seen as relating to the discharge of functions of civic office (eg. Attendance at seminars, conferences and the like, with the exception of the Annual Conference of the Local Government Association).

The payment for spouses, partners and accompanying persons for attending appropriate functions (as detailed above) will be confined specifically to the ticket, meal and/or the direct cost of attending the function. Peripheral expenses incurred by spouse, partners or accompanying persons such as grooming and special clothing are not considered reimbursable expenses.

Travelling expenses may be reimbursed when the spouse, partner or accompanying person of a Mayor, or a Councillor when they are representing the Mayor, when they are called on to attend an official function of Council or carry out an official ceremonial duty while accompanying the Mayor outside the Council area, but within the State. Examples could include charitable functions to which the Mayor has been invited and award ceremonies and other functions to which the Mayor is invited to represent the Council.

(xiii) All benefits provided to a Councillor.

Note: The Mayor must seek reimbursement for his/her expenses within the financial year in which they were incurred or within three (3) months of incurring the expense(s), whichever is the later.

**PART 5 - PROVISION OF ADDITIONAL FACILITIES & SPECIFIC EXPENSES
FOR DEPUTY MAYOR**

The Deputy Mayor is entitled to receive:

- (i) A Deputy Mayoral Fee (Allowance) to be set by Council annually following determination by the Remuneration Tribunal.
- (ii) Deputy Mayoral name badges.
- (iii) A mobile telephone with the rental and maintenance to be paid by the Council, but with a limitation of \$400 per month as the maximum call cost to be borne by the Council.
- (iv) All benefits provided to a Councillor with the proviso that the Deputy Mayor will only be provided with one mobile phone and the total call costs will be in accordance with Part 4, Clause (iii) (above).

Note: The Deputy Mayor must seek reimbursement for his/her expenses within the financial year in which they were incurred or within three (3) months of incurring the expense(s), whichever is the later.

PART 6 - LIMITATION ON SPECIFIC EXPENSES FOR THE MAYOR AND COUNCILLORS

General travel arrangements

All travel by Councillors should be undertaken by utilising the most direct route and the most practicable and economical mode of transport subject to any personal medical considerations.

The driver of any vehicle (including the Mayor and Councillors) is personally responsible for all traffic and parking fines incurred while travelling in private or Council vehicles on Council business.

The reimbursement of travel expenses includes associated other costs such as parking and road tolls.

Private benefit

Councillors should not obtain private benefit from the provision of equipment and facilities, nor from travel bonuses such as 'frequent flyer' schemes or any other such loyalty program. However, it is acknowledged that incidental use of Council equipment and facilities may occur from time to time. Such incidental private use is not subject to a compensatory payment.

Where more substantial private use has occurred the Councillor must reimburse Council for the actual cost to Council of the private use in question.

PART 7 – LEGAL ASSISTANCE

Council may disburse money only if the disbursement is authorised by the Local Government Act 1993, either expressly or because it is supplemental or incidental to or consequential upon the exercise of its functions.

In the particular circumstances outlined below, Council will indemnify or reimburse the reasonable legal expenses of:

- a) a Councillor defending an action arising from the performance in good faith of a function under the Local Government Act (section 731 refers); or
- b) a Councillor defending an action in defamation provided the statements complained of were made in good faith in the course of exercising a function under the Act; or
- c) a Councillor for proceedings before the Local Government Pecuniary Interest and Disciplinary Tribunal or an investigative body provided the subject of the proceedings arises from the performance in good faith of a function under the Act and the Tribunal or investigative body makes a finding substantially favourable to the councillor.

Legal expenses incurred in relation to proceedings arising out of the performance by a Councillor of his or her functions under the Act should be distinguished from expenses incurred in relation to proceedings arising merely from something that a Councillor has done during his/her term in office. An example of the latter is expenses arising from an investigation as to whether a Councillor acted corruptly by using knowledge of a proposed rezoning for private gain. This type of expense is not reimbursable under this policy

Council will not meet the costs of an action in defamation taken by a Councillor as plaintiff in any circumstances.

Council will not meet the costs of a Councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation.

How to apply for reimbursement of legal expenses

The application for reimbursement of legal expenses should be made in writing to the General Manager.

An application for reimbursement of legal expenses may be made at any time after the expenses have been incurred. However, the decision as to whether to provide reimbursement will only occur once the investigative body has:

- o confirmed in writing that it has completed the investigation(s) or hearing(s) or, where a Report is to be prepared pursuant to the relevant legislation, published its Report; and
- o Confirmed in writing that no adverse finding or recommendation has been made with respect to you.

Note: "No adverse finding or recommendation" means no finding of corrupt conduct, maladministration or criminality (whichever is relevant given the relevant investigative body and the particular investigation or hearing being conducted).

Council will need to pass a resolution that it is satisfied the discharge of your relevant duty or function was "bona fide," that is, in good faith or with an honest intent.

Where the General Manager is satisfied that your application has satisfied the other eligibility requirements, the General Manager will refer your application to Council for a determination as to whether it is satisfied your discharge of your duty (or duties) or exercise of your function (or functions) was "bona fide."

Where Council is not satisfied of the above, Council should provide reasons for its determination.

Where Council resolves that it is satisfied of the "bona fide" discharge of your duties or exercise of your functions as set out above, the General Manager may make a final determination, as an operational matter, as to whether reimbursement of legal expenses should occur under the Policy.

PART 8 - INSURANCE / INDEMNITY

Section 382 of the Local Government Act 1993 requires a Council to make arrangements for its adequate insurance against public liability and professional liability.

The Mayor and Councillors will be provided with full indemnity against any action, liability, claim or demand, arising from the bona fide performance of their responsibilities, with the exception of defamation claims where the availability and extent of an indemnity shall be determined by Council, in its absolute discretion, after the claim has been disposed of by a final judgement in proceedings, withdrawn, settlement or compromise of proceedings or otherwise as the case may be, having regard to all circumstances that Council, in its absolute discretion, considers relevant.

Insurance provision for Councillors includes:

- Public liability (for matters arising out of Councillors' performance of their civic duties and/or exercise of their Council functions);
- Professional indemnity (for matter arising out of Councillors' performance of their civic duties and/or exercise of their Council functions);
- Personal injury while on Council business. Note; Councillors are not covered by Workers Compensation payments or arrangements.
- Travel insurance for approved interstate and overseas travel on Council business.

All insurances are subject to any limitations or conditions set out in the Council's policy of insurance.

PART 9 - CODE OF CONDUCT REQUIREMENTS

Council's Code of Conduct contains the following provisions that are relevant to this Councillors' Expenses & Facilities Policy:

Use of Council resources

- 9.14 *You must use Council resources ethically, effectively, efficiently and carefully in the course of your public or professional duties, and must not use them for private purposes....unless this is lawfully authorised and proper payment is made where appropriate.*
- 9.16 *You must be scrupulous in your use of Council property including intellectual property, official services and facilities and should not permit their misuse by any other person or body.*
- 9.17 *You must avoid any action or situation which could create the impression that Council property, official services or public facilities are being improperly used for your own or any other person or body's private benefit or gain.*
- 9.18 *The interests of a Councillor in their re-election is considered to be a personal interest and as such the reimbursement of travel expenses incurred on election matters is not appropriate. Council letterhead, Council crests and other information that could give the impression it is official Council material must not be used for these purposes.*
- 9.19 *You must not convert any property of the Council to your own use unless properly authorised.*

APPENDIX A

**CLAIM FOR REIMBURSEMENT OF EXPENSES
BY COUNCILLORS**

I hereby submit my claim for reimbursement of expenses in accordance with the provisions of the Local Government Act and Council's Policy with respect to the Payment of Expenses & Provision of Facilities to Councillors.

Name of claimant: Councillor.....

Claim for reimbursement of expenses:

Date	Nature of Business	Nature of Claim	Amount claimed

Claim for reimbursement of travel expenses:

Date	Nature of business (include where the travel was to/from & the purpose of the travel)	Method of travel	Distance in Kms	Rate / Km	Amount claimed

Total amount claimed and /or tax invoices: \$

**Please note: Receipts must be attached to this claim form in order
for reimbursement to be processed.**

Signature:.....

Date:.....

Director, Governance & Financial Services' Report 76/2007



SUBJECT:	ECONOMIC DEVELOPMENT STRATEGY

DATE:	14 November, 2007	FILE NO:	F2007/00363

REPORT BY: DIRECTOR, GOVERNANCE & FINANCIAL SERVICES

INTRODUCTION:

One of the key actions contained in the Randwick City Plan is to prepare and implement an Economic Development Strategy for Randwick City.

In addition, Council's 2007/11 Management Plan contains the following action for the 2007/08 financial year:

"Undertake research towards and commence preparation of the Draft Economic Strategy."

ISSUES:

A cross functional economic development strategy team has been formed to facilitate a number of activities that will lead to the preparation of an Economic Development Strategy by 30 June 2008.

The activities of the team cut across a number of Council's functional areas, including; strategic planning, development assessment, integrating planning, administration and finance.

The areas that the cross functional team have been investigating include:

Randwick Economic Activity Study (Stage One) – this study is being carried out by a consultant (SGS Economics & Planning) and is being coordinated by the Strategic Planning Department. This work will lead to a more detailed strategy which will look at issues such as employment figures, the origin of employees and how they get to work etc. As part of the development of this study discussions will be held with the University, hospital and business owners.

Consultation Forums – two (2) consultation forums will be held following the Christmas break and will be facilitated by the consultant preparing the Economic Activity Study. All relevant stakeholders will be consulted prior to a draft Economic Development Strategy being prepared.

Budget – refer to the comments below under the Financial Impact Statement sub-heading.

Biz Gateway – a cross sectional team of council staff has been liaising with consultants from the “Dynamic Small Business Network” to develop a program on Council’s website which will assist new and existing businesses in the local area to understand their government compliance requirements through a very simple question and answer process.

These answers will generate a checklist of licences and permits for their business type and will eliminate a lot of time and frustration for residents wanting to start up or modify a business in the Randwick area. Only eight councils in the metropolitan area currently have this initiative available to their community.

Shop Local – At the 26 February 2006 Council Meeting (on the motion of the then Mayor, Cr Seng), it was resolved that:

- a) Council consult with and assist the local chambers of commerce to develop and implement “shop local” strategies and that, where possible, Council support those strategies in the manner outlined in Council’s City Plan (and in particular ‘Background Paper 3: A Prospering City’); and
- b) A “Shop Local” policy be developed for application to Randwick City Council purchases.

A number of initiatives have been undertaken in this area, with Council’s tender evaluation weightings now including a score for locality and the tender specifications now including a reference to Council’s shop local policy. A recent example of the application of this policy is the travel services tender adopted by Council at the 30 October 2007 Council Meeting which went to a locally based travel centre.

Eastern Suburbs Business Enterprise Centre (ESBEC) and Randwick City Tourism Inc – Both the ESBEC and Randwick City Tourism will consult on an ongoing basis during the consultation and development stages of the strategy. The cross-functional team has already had some contact with the ESBEC in relation to a shop local “Village Card” initiative, staff representation at ESBEC Business Breakfasts and the conduct of ESBEC business workshops on Council premises. A background report on services provided by the ESBEC has been circulated under separate cover.

The ESBEC has requested a link on Council’s website to cater for those requiring assistance in the Randwick City business community. This would strengthen the partnership between the ESBEC and Council and would complement the newly released Biz Gateway initiative nicely.

Options are currently being examined by the ESBEC to have a business presence in the Randwick area and this would again strengthen their ties with Council and improve the relationship between Council and the business community. Opportunities are currently being explored by both parties to make this happen.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

- Outcome 8: A Strong Local Economy – our town centres, businesses, industries and institutions will foster innovation and will be thriving, vibrant and attractive places to work, shop and interact.
- Direction 8a: Vibrant business, commercial and industrial sectors that provide ongoing and diverse employment opportunities
- Key action: Prepare and implement an economic strategy for Randwick City.

FINANCIAL IMPACT STATEMENT:

The development of an Economic Development Strategic Plan will be funded from Section 94 funds. \$80,000 has been allocated for this purpose in the 2007/2008 budget.

In addition, \$70,000 has been allocated in the strategic planning budget for Stage One of the Economic Activity Study.

CONCLUSION:

The next major step in the process toward the development of an economic development Strategy will be the consultation sessions to be held in January/February 2008. The attachment illustrates how this Strategy will fit into the global, regional and local context.

RECOMMENDATION:

That:

- (a) the report on the progress made thus far by the newly formed Economic Development Committee be received and noted; and
- (b) approval be given for a link on Council's website to the website for the Eastern Suburbs Business Enterprise Centre to cater for those requiring assistance in the Randwick City business community.

ATTACHMENTS:

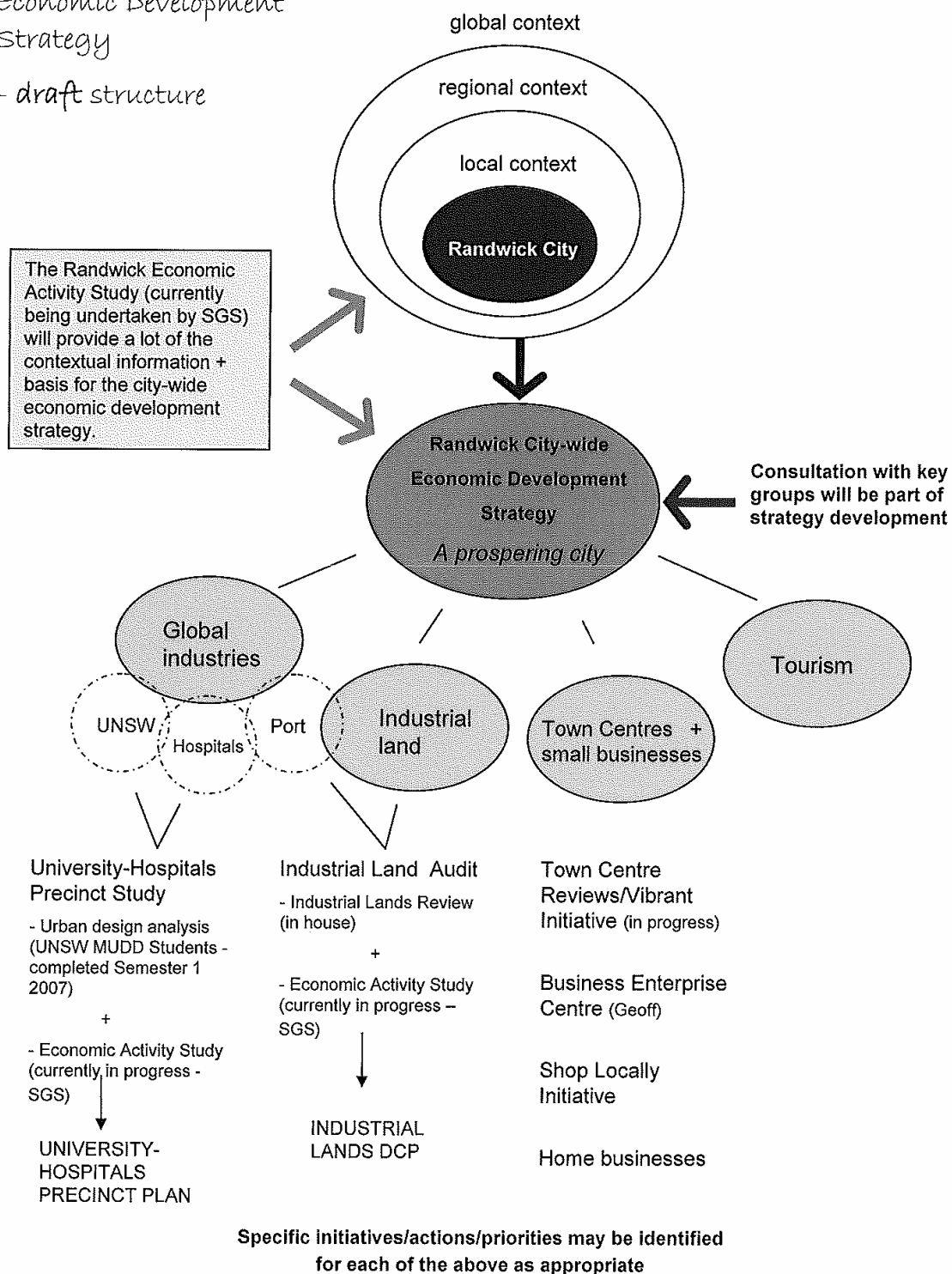
- 1. Economic Development Strategy - draft structure.
- 2. Background Paper - Eastern Suburbs Business Enterprise Centre - Under Separate Cover

.....
GEOFF BANTING
DIRECTOR, GOVERNANCE & FINANCIAL
SERVICES

.....
DAVID KELLY
MANAGER ADMINISTRATIVE
SERVICES

Economic Development Strategy

- draft structure



Director, Governance & Financial Services' Report 77/2007



SUBJECT:	ACCESS TO INFORMATION - POLICY, GUIDELINES & FREQUENTLY ASKED QUESTIONS

DATE:	7 August, 2007	FILE NO:	F2004/06164 xr F2004/06104

REPORT BY: DIRECTOR, GOVERNANCE & FINANCIAL SERVICES

INTRODUCTION:

The Local Government Managers' Association (LGMA) Governance Network has developed a set of Information Access documents for use by member Councils.

ISSUES:

The LGMA Governance Network has developed a standard suite of Information Access documents that can be customised to suite the needs of member Councils.

The Information Access documents are made up of:

- A Policy Statement;
- Guidelines; and
- Frequently Asked Questions (FAQs).

The adoption of the documents by member Councils will assist in standardising the manner in which information access issues are dealt with both within and between Councils.

Council is asked to adopt the attached Information Access Policy Statement (which will be supported by the Guidelines and Frequently Asked Questions).

There are a number of advantages of adopting standardised documents with respect to information access, including:

- Council staff will have access to detailed guidelines and will be in a position to provide accurate and consistent information to the public;
- Complaints, based on the fact that members of the public are able to access information from some Councils and not others, will be reduced;
- Council's information access staff will have written guidelines that they can rely on when explaining the reason(s) for decisions to the general public; and
- The Guidelines and FAQs will assist staff and the community to better understand a complex and often confusing combination of legislation (including the Local Government Act, the Freedom of Information Act, the Privacy & Personal Information Protection Act, the Environmental Planning

& Assessment Act) and associated documents (including the Ombudsman's NSW FOI Manual and Council's Privacy Management Plan).

The documents in question have been endorsed by the ICAC, the NSW Ombudsman's Office and the Department of Local Government.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 11: Excellence in staff management.
Direction 11a: A working environment that provides a strong platform for productivity and achievement and allows all staff to contribute to the best of their ability to achieving Councils outcomes.

FINANCIAL IMPACT STATEMENT:

There is no direct financial impact for this matter.

CONCLUSION:

It is recommended that the attached Policy Statement be adopted. Council currently manages its information access requests in accordance with the Policy Statement and associated Guidelines.

RECOMMENDATION:

That the policy statement, in relation to Access to Information held by Randwick City Council, be adopted.

ATTACHMENT / S:

1. Access to Information held by Randwick City Council - Policy Statement.
2. Randwick City Council - Access to Information Guidelines.
3. Access to Information held by Randwick City Council - Frequently Asked Questions.

.....
GEOFF BANTING
DIRECTOR, GOVERNANCE & FINANCIAL
SERVICES

.....
JULIE HARTSHORN
SENIOR ADMINISTRATIVE
COORDINATOR



Access to Information held by Randwick City Council – Policy Document

1 Objective

The objective of this policy is to describe Council's principles regarding public access to information and to facilitate the processing of requests for such access. This policy is to be read in conjunction with the Access to Information Guidelines.

2 Principles

Randwick City Council is committed to the following principles regarding public access to documents and information:

- ☐ Open and transparent government;
- ☐ Consideration of the public interest in relation to access requests; and
- ☐ Respect for the privacy of individuals.

3 Implementation

- ☐ The 'Access to Information Guidelines' document associated with this policy identifies the documents and types of information that are available for public access and any restrictions that may apply.
- ☐ Council will assess all requests for access to documents and information in a timely manner and in accordance with the 'Access to Information Guidelines' and relevant legislation.
- ☐ Depending upon the nature of the request and the form of access requested charges may be applied in accordance with Council's Schedule of Fees and Charges and relevant legislation.
- ☐ Council will assess all requests for access to information with reference to:
 - o Section 12 of the Local Government Act 1993;
 - o The Privacy and Personal Information Protection Act 1998;
 - o The Freedom of Information Act 1989;
 - o The Environmental Protection & Assessment Act 1979; and
 - o The Health Records and Information Privacy Act 2002.

*This document is based on model information access documents prepared by the
Local Government Managers' Association (LGMA) Governance Network*



Randwick City Council Access to Information Guidelines

1. Accessing Information

Randwick City Council is subject to NSW legislation that requires it to be open and accountable in the exercise of its functions, and to handle personal and health information in a fair and reasonable manner. Council will seek to ensure that legitimate requests for access to information are handled promptly and that members of the public are able to access information, subject to the need to protect the privacy of others, commercially sensitive information and information the disclosure of which would not be in the public interest.

These guidelines set out the documents and types of information that are available to members of the public as a matter of routine, and those that will not generally be available for inspection and copying. Where practicable, Council will deal with requests to inspect documents in accordance with the NSW Local Government Act 1993 free of charge but a reasonable photocopying fee will be payable under the Act. Fees will also be charged for access to versions of documents that are neither current nor immediately preceding versions of the document and are not reasonably accessible. All charges are detailed in Council's Schedule of Fees and Charges.

There is a right of access under the Local Government Act 1993 to documents held by Council subject to the restrictions outlined in section 12A of the Act.

There are additional rights of access to documents held by the Council under the NSW Freedom of Information (FOI) Act 1989. Any FOI applications will be processed in accordance with the Act's requirements and a determination made to release the documents or refuse access on the basis of the exemption provisions in the Act. Charges for FOI applications are in accordance with guidelines issued by the Office of the Premier and include a \$30 application fee. In some circumstances processing charges may also be applied.

Under the NSW Privacy and Personal Information Protection Act (PPIPA) 1998 and the NSW Health Records and Information Privacy Act (HRIPA) 2002, an individual also has a right to access and amend records held by Council which contain their personal details, matters related to their business affairs and any records containing information about their health. Where information about an individual is held in documents, files or systems that include information about other persons, any request should be made under the FOI Act. The Act provides for consultation with other affected parties prior to disclosure of information concerning their personal or business affairs.

2. Documents Available

The types of documents that are available and may be accessed under section 12(1) of the Local Government Act 1993 include but are not limited to:

Management Plans;
Budget information;

Development Applications and associated documents;
Council's Business Papers;
Annual Reports;
Council Policies;
FOI Statement and Summary of Affairs.

Most of the abovementioned information is also available on the Council website at www.randwick.nsw.gov.au and at Council's library.

Some documents are available to be viewed but cannot be copied under State legislation. These include:

- ☐ The Residential Roll of Electors (as of the last election)
- ☐ The resumes of candidates for election
- ☐ Building Certificates (without building owner's consent)
- ☐ Plans of buildings and developments unless the copyright owner approves or unless part of a development application (see copyright exemption in clause 57 of the *Environmental Planning and Assessment Regulation 2000* during Development Application notification period. Also see Question 10 and appendix 3 of the FAQs).

Section 12(6) of the Local Government Act 1993 allows inspection of documents in addition to those referred to above unless inspection is deemed by Council to be contrary to the public interest or a restriction applies as listed in section 3 below. Other documents available for view and copy under this clause may include but are not limited to:

- ☐ Home owner warranty insurance documents;
- ☐ Building essential certification documents;
- ☐ Construction certificates;
- ☐ Occupation certificates;
- ☐ Structural certification documents;
- ☐ Town Planners (DA) reports;
- ☐ DA submission letters (excepting where submitter requests confidentiality on the basis of personal safety);
- ☐ Complaints, with the personal details of the complainant masked or a summary of the nature of the complaint if release of the complaint may disclose the identity of the complainant;
- ☐ DA Heritage consultants reports;
- ☐ DA Traffic consultants reports;
- ☐ Tree inspection consultants reports;
- ☐ Acoustics consultants reports and
- ☐ Consultants' Land Contamination Reports.

Copies of documents provided are given for information purposes only and are provided by Council to meet its requirements under relevant legislation. Copyright laws still apply to each document. The copyright-owner's consent is required if any part of the document is used for any other purpose.

3. Exemptions to Access

Under relevant legislation access to some documents and information held by Council may be restricted if the document or part thereof contains or may result in unreasonable disclosure of the following types of information:

- ☐ Personnel matters concerning particular individuals (other than Councillors);

- ☐ Personal affairs of any third party or parties
- ☐ The personal hardship of any resident or ratepayer;
- ☐ Trade secrets;
- ☐ A matter the disclosure of which may:
 - be contrary to law, or
 - give rise to action for breach of confidence;
- ☐ That part of a draft or adopted plan of management that is the subject of a resolution of confidentiality under section 36DA; or
- ☐ Documents which were submitted to or are to be submitted to a 'Closed Session' of a Council or Committee Meeting.

Section 12(1A) of the Local Government Act 1993 restricts access to internal configurations of residential developments but allows access to the height and external configuration of a building and other plans such as shadow diagrams and landscape plans.

Access to some documents may be considered to be contrary to the public interest under section 12 and may require lodgement of a Freedom of Information Application and third party consultation. These documents include:

- ☐ Legal advice*;
- ☐ Personnel (individual staff) matters;
- ☐ Complaints;
- ☐ Individual's details on DA submissions where they claim personal safety issues;
- ☐ Council Lease documents;
- ☐ Council Contracts;
- ☐ Council Tenders; and
- ☐ Insurance claims
- ☐ Complete copies of Council files.

*** Legal professional privilege may apply to communications between Council and its legal advisers for the purpose of obtaining legal advice, or third parties for the purpose of obtaining legal advice relating to pending or threatened legal action by or against Council. If so, it is not normally available to be inspected or copied.**

Council may refuse an application which, if accepted, would result in an unreasonable diversion of resources. In such cases, Council will endeavour to assist the applicant to amend the application so it would no longer be an unreasonable diversion of resources.

4. Making an Application

To request access to information under section 12 of the Local Government Act 1993, please complete the 'Access to Information' Request Form shown attached as Appendix 1.

A fee for photocopies of documents provided under section 12 of the Local Government Act 1993 is payable and will be detailed in Council's adopted Fees and Charges and is GST inclusive.

To request access to information under the Freedom of Information Act 1989, please complete the Freedom of Information Application Form shown attached as Appendix 2.

The Freedom of Information Application fee is \$30.00 and processing charges may be applicable (there is no GST in relation to these charges).

5. Rights of Review and Appeal

If access to any document(s) is refused you will be advised of the reasons for the refusal and, where appropriate, other means of access will be suggested (such as submitting a Freedom of Information Application).

Where a member of the public is refused access under section 12 of the Local Government Act 1993, staff will provide details of the reasons for refusal to the member of the public in writing. The member of the public can request further review of the decision after 3 months of the original review.

Any member of the public who is dissatisfied with Council's handling of the request for access to information under the Local Government Act 1993 may lodge a complaint with the NSW Ombudsman.

This document is based on model information access documents prepared by the Local Government Managers' Association (LGMA) Governance Network

Appendix 1**Access to Information Request Form****(This form is to be used for access to documents held by Randwick City Council)****APPLICANT'S DETAILS**

Surname Given Names Title Mr/Mrs/Ms)

Postal Address
..... Postcode

Telephone Number (M)

Fax Number E-mail

IS THE INFORMATION ABOUT YOUR PERSONAL AFFAIRS? YES/NO**DOCUMENTS REQUESTED:**

☐ View Development Application Consent	☐ Copy DA Application Consent
☐ View Planners Report	☐ Copy Planners Report
☐ View DA/CC Application Form	☐ Copy DA/CC Application Form
☐ View Building Certificate	☐ Copy Building Certificate
☐ View Building Application consent	☐ Copy BA consent
☐ View Occupation Certificate	☐ Copy Occupation Certificate
☐ View DA, BA or CC Plans	☐ Copy Plans
☐ View DA submission letters	☐ Copy of DA submission letters
☐ Other	

PROPERTY DETAILS

Street Address

Lot No DP or SP No Application No

Building Name Approx Age of Building

Description of Development

COPYING CHARGES

Photo copies per A4 size page - \$0.60

PLANS (per page) \$6.00 - A1 \$0.90 - A3 \$0.60 - A4

Applicant advised of estimated copying charges of \$..... YES / NO / NA

DECLARATION:

1. I acknowledge that there is a charge as shown above for Council to provide copies of documents that I request and that copyright still exists on each document.
2. I understand that I must seek the Copyright Owner's Consent in order to use any part of a copyright document for any other purpose.

Signature Date

DOCUMENT INSPECTION / DELIVERY DETAILS

Inspect at

Forward by Mail / Fax / E-mail Circle one item.

PRIVACY & PERSONAL INFORMATION PROTECTION NOTICE

The purpose of collection of information is for public access to Council's documents under Section 12 LG Act. Provision of this information is voluntary and is required help process your application. You are entitled to have access to this form to correct or amend it after you have given it to Council. This form will be placed on a relevant file to which the public will have access [add who will have access to the form] when the request has been processed and the enquiry is completed.

OFFICE USE ONLY

Request received by.....Location

Date.....

Total Fees Date Fees Paid.....Receipt Number.....

Referred to.....Department.....Date.....

Completed by.....Completed Date.....

Appendix 2**Freedom of Information Application**

(Pursuant to the Provisions of Section 17 & 35 of the Freedom of Information Act
(NSW) 1989)

Details of Applicant

Title (Mr/s etc)..... Name.....

Postal Address

.....

Phone Number Mobile

Details of Application

I request access to document/s concerning:

.....

.....

.....

These documents **do / do not** contain information about my personal affairs.
(Please cross out whichever does **not** apply.)

Form of Access

I wish to inspect the document(s) ☐ Yes ☐ No

I require a copy of the document(s) ☐ Yes ☐ No

I require access in another form: (please specify).

.....

Fees and Charges

Attached is a cheque/money order/cash to the amount of \$30 to cover the application fee. **(Please do not send cash through the mail.)** I understand that a processing fee may apply and that if the application is concerning my personal affairs, the first 20 hours of processing does not attract a processing fee. I understand that if I request copies of documents I will be required to pay photocopying charges in respect of this request and that I will be supplied a statement of charges if appropriate.

Signed: Date:

PRIVACY & PERSONAL INFORMATION PROTECTION NOTICE

The purpose of collection of information is for public access to Council's documents under the Freedom of Information Act. Provision of this information is voluntary and is required help process your application. You are entitled to have access to this form to correct or amend it after you have given it to Council. This form will be placed on a relevant file to which the public will have access [add who will have access to the form] when the request has been processed and the enquiry is completed.



Access to Information held by Randwick City Council

Frequently Asked Questions

These questions address and elaborate on issues covered in the Access to Information Guidelines. These questions are based on common inquiries made in relation to access to information held by Randwick City Council. It is advisable that the Guidelines are referred to first, as they will address the majority of issues.

1. What information held by Council is available and how can I access it?

The types of documents that are available and may be accessed under section 12(1) of the Local Government Act 1993 include Management Plans, budget information, development applications and associated documents, Council's business papers, annual reports, Council policies and Statement and Summary of Affairs.

Some of the abovementioned information is also available on the Council website at www.randwick.nsw.gov.au and at Council's library.

Some documents are available to be viewed but cannot be copied under State legislation. These include the Residential Roll of Electors (as of the last election), the resumes of candidates for election, building certificates and plans of buildings and developments unless the copyright owner approves or unless part of a development application.

Please refer to Points 1 & 2 in the Access to Information Guidelines.

2. What costs are involved in applying for access to information?

As far as possible, Council will deal with requests to inspect documents in accordance with the NSW Local Government Act 1993 free of charge. However, a reasonable photocopying fee is payable under the Act. A fee may also be charged for access to versions of documents that are neither current nor immediately preceding versions of the document and are not reasonably accessible. Any charges applicable are detailed in Council's Schedule of Fees and Charges.

The Freedom of Information Application fee is \$30.00 and processing charges may also be applicable.

Please refer to Point 4 in the Access to Information Guidelines.

3. What are Council's obligations?

- To process Freedom of Information Applications with 21 days of receipt.
- To process Access to Information Requests within 10 working days of receipt;
- To process access to information requests taking into consideration the public interest;
- To liaise with customers on details of their application where appropriate;

- To promote the use of Council's website to provide access to a wide range of documents;
- To ensure staff have up-to-date training on dealing with access to information requests.

4. What is the "public interest"?

The "public interest" is not defined within any Act but it has been variously described as "something which is of serious concern and benefit to the public," not merely something of individual interest. It has also been held that public interest does not mean "of interest to the public" but "in the interest of the public," i.e. it serves the interests of the public. In his 2002 Annual Report, the former Irish Information Commissioner defined the public interest in the following way:

"In very general terms, I take it that the public interest is that which supports and promotes the good of society as a whole (as opposed to what serves the interests of individual members of society or of sectional interest groups). In this sense I take it that the term 'public interest' broadly equates with the term 'the common good'

The Deputy NSW Ombudsman, Mr Chris Wheeler, has recently released a paper on the public interest and concludes that the main objective in using the term 'the public interest' is to "direct consideration away from private, personal, parochial or partisan interests towards matters of broader (i.e. more 'public') concern."

5. What documents are available for inspection at Council without the need for a formal written application?

Some documents about Council are available as a matter of routine and can be inspected without any formal procedures. These documents include: business papers and minutes of open Council (and Council Committee) meetings, the Annual Report, the Management Plan, policy documents, and planning instruments.

Publicly exhibited development applications and associated documents are available for inspection without formal written application during the public exhibition period only. The documents available in each case are the application and the documents lodged with the application, with the exception of documents depicting the internal layout or design of residential buildings. In some circumstances commercial information or information which if disclosed would have an adverse effect on the security of a building will not be available for public inspection. It is Council policy to make submissions received, including objections in respect of a publicly exhibited development, available for public inspection. **Persons making a submission in relation to a development application should keep this in mind and seek legal advice before making statements that could be adverse or defamatory to other persons.**

Council also maintains public registers that are available for inspection by members of the public. A full list of registers is contained in Appendix 1. Some of these registers do not contain personal information and can be inspected by any person at any time. Registers that do contain personal information can be inspected on Council premises but Council is required to ensure that any person seeking to inspect a register is doing so for a purpose consistent with the purpose for which the register was created. Council may require a statutory declaration from a person regarding the purpose for which access is sought. The person may be asked to declare that the information will not be used for any other purpose than that indicated.

A member of the public may view and copy one entry in a public register without having to provide a reason. For all other documents a written application is necessary.

More details on statutory declarations and who can endorse them can be found at www.ag.gov.au/www/agd/agd.nsf/Page/Statutory_declaration.

If you require a statutory declaration form you may find a printable version of the form at www.ag.gov.au/www/agd/agd.nsf/Page/Statutory_declaration.

6. What restrictions are there in accessing information held by Council?

Under current State legislation some information held by Council may not be released. Accordingly, Council may restrict access to some information where:

- ☐ Council is satisfied that allowing access would on balance be contrary to the public interest;
- ☐ the information discloses legal advice and/or correspondence between Council and its legal representatives;
- ☐ information in advice from Council insurers or their agents;
- ☐ disclosure of the information would reveal personnel matters concerning particular individuals, eg personal, health or disciplinary matters regarding staff;
- ☐ disclosure would reveal information concerning the personal hardship of a resident or ratepayer;
- ☐ disclosure of personal information eg details of complainants;
- ☐ disclosure of the information would reveal trade secrets eg on occasions this may occur in a tender submission;

disclosure of the information would constitute an offence or a breach of confidence; or ☐ disclosure of the information would confer a commercial advantage on a party with whom Council is conducting (or proposes to conduct) business (section 12 1(a)).

7. What happens if Council refuses to provide documents associated with my Document Access Request?

If access to any document(s) is refused you will be advised of the reasons for the refusal and, where appropriate, other means of access will be suggested (such as submitting a Freedom of Information Application). Where a member of the public is refused access under section 12 of the Local Government Act 1993, staff will provide details of the reasons for refusal to the member of the public in writing. A report will be submitted to Council and the matter will be reviewed within 3 months. The member of the public can request further review of the decision after 3 months of the original review.

Any member of the public who is dissatisfied with Council's handling of the request for documents or Council's procedures in relation to access to information, under the Local Government Act 1993, may lodge a complaint with the NSW Ombudsman.

8. What information can be provided about a named individual?

Information about a named individual can only be provided to another person or organisation where disclosure is consistent with Council's obligations under the Local Government Act, the Freedom of Information Act, the Privacy and Personal Information Protection Act or the Health Records and Information Protection Act. Those Acts do not prohibit disclosure but set out circumstances in which the Council may provide information including where this is consistent with the purpose for which the information was collected; where the person has consented to the disclosure or was made aware that information of this kind is usually disclosed; or where another act or law permits disclosure. There are a variety of other circumstances where Council may disclose personal information to other agencies including law enforcement authorities.

9. What information is available about property ownership?

Council will not provide ownership information unless an emergency or where other considerations justify disclosure of the name and/or contact details of the owner (for example, providing the name and address of an absent owner to the owner of an adjoining property to enable a claim to be made under the Dividing Fences Act 1991 to recover a contribution to the cost of fencing). The Land Title Registers maintained by the NSW Land and Property Information Service at the Department of Lands can be accessed from that office, from approved land information brokers and online. Online searches are available at: <https://lpi-online.lpi.nsw.gov.au/cgi-bin/lpis/menu.pl>.

10. What information can I access about development applications?

Information about the status of particular development applications can be provided to any member of the public. Such information is available from the Development Application Register. The Register contains the information listed in Appendix 2. Any member of the public may also inspect a Development Application and the documents lodged with the application while the application is under consideration. Access will not be given to information which, if disclosed, would be likely to prejudice the commercial interests of the applicant, reveal a trade secret or would have an adverse effect on the security of any building or structure.

Plans of the internal layout or design of a residential building are not available at anytime but access to the height and external configuration of a building and other plans such as shadow diagrams and landscape plans are. Council assessment reports and other documents created or received in the course of consideration of a Development Application are not available for inspection prior to the application being determined by Council staff or Council.

Access to Development Application documents after an application has been determined is as provided in the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000 and section 12(1) of the Local Government Act. The documents available for public inspection are those listed in Appendix 3. Council maintains a Register of Complying Development Applications that contains the information listed in Appendix 4. Documents available for inspection in connection with the issue of any Complying Development Certificate or a Construction Certificate are listed in Appendix 5.

11. How do I obtain a copy of submission letters?

Fill out an Access to Information form (go to www.randwick.nsw.gov.au) and tick - view (or copy) DA submission letters.

Submission/objection letters lodged pursuant to the Development Application notification process are deemed to be lodged as part of a public process. Objectors and supporters are informed by a Development Application notification letter that their submissions will be made public. However, under section 739 of the Local Government Act 1993, a person may request that their name and address be removed from documents available for public inspection, if disclosure would place that person or members of their family's personal safety at risk. Council is required to give consideration to the public interest in determining requests for access to submissions.

It is important that submission letters only contain information relevant to the Development Application and not information of a personal nature.

12. Can I gain access to Development Consents and/or Construction Certificates?

Yes, fill out an Access to Information form (go to www.randwick.nsw.gov.au) and tick the appropriate box.

Construction Certificate (CC) documents available under section 12 of the Local Government Act 1993 include a copy of the Building Certificate, a copy of the Occupation Certificate, and copies of either private or Council certified CC plans (excluding internal plans of residential developments). Copies of documents will be provided on payment of the prescribed fee listed in Council's Schedule of Fees and Charges.

13. How do I obtain a copy of Development Application/Private or Council-certified Construction Certificate Plans of a residential building?

Fill out an Access to Information form (go to www.randwick.nsw.gov.au) and tick the appropriate box. Council will not permit viewing of internal plans of residential developments or copies of such plans to be made. Only plans showing the height and external configurations in relation to the site will be provided for viewing and copying if required. Note that if the applicant is the current owner of the property he or she has a legal right to inspect and obtain copies of such documents and copyright considerations do not arise.

14. Can I access details of a complaint?

Requests for access to complaints held by Council may be made under section 12 of the Local Government Act 1993 and under the Freedom of Information Act. However Council will need to consider relevant privacy legislation and the public interest in deciding whether or not to provide any personal information about the complainant. In most circumstances complainant personal details (or any material that would identify the complainant) will not be provided. Council will, however, outline the substance of the complaint so that applicants may fully understand the circumstances and concerns of other members of the public (in most cases this will involve Council providing a copy of the complaint in question with the personal details of the complainant deleted).

15. Does Council disclose information to the police and other law enforcement agencies?

Council will cooperate with law enforcement agencies. In addition to publicly available information, Council will comply with lawful directions and will consider additional formal requests for information by the Police or other agencies where it is satisfied the information is required for law enforcement purposes.

16. Does Council disclose information to other government agencies?

Council will cooperate with other government agencies in providing access to information where required or permitted by law. If the request is for access to personal information held by Council the requesting agency will be required to provide details of its powers to seek the information. Council may provide information to another government agency or public utility where requested in writing and where it is satisfied that the information is reasonably necessary for the other agency's functions.

Such agencies are normally subject to similar obligations under the Privacy and Personal Information Protection Act 1998 or the Health Records and Information Protection Act 2002 in relation to that information as is Council.

17. What information can I obtain about employees of Council?

Personnel information about Council employees is not publicly available.

18. What information can I obtain about tenders and contracts?

Information about the name and price of a successful tenderer is publicly available. Any request for additional information or access to documents concerning tenders and contracts may be considered to be contrary to the public interest under section 12 and may require lodgement of a Freedom of Information Application and third party consultation.

19. What information can I obtain about animals and animal ownership?

Information held by the Council concerning companion animals must be handled in accordance with the Companion Animals Act 1998 and cannot be disclosed to the public.

Further information about Companion Animals legislation may be found on the NSW Department of Local Government's website (www.dlg.nsw.gov.au).

20. What information can I obtain about insurance claims?

Information about insurance claims is not publicly available. Any request for information about insurance related matters will require the lodgement of a Freedom of Information Application form (go to www.randwick.nsw.gov.au).

21. When can I apply for information under the Freedom of Information Act 1989?

A Freedom of Information application (www.randwick.nsw.gov.au) can be made for access to any documents. Applicants are encouraged to utilise the Freedom of Information Act 1989 where documents may be contentious or concern the affairs of others or where access to complete copies of Council files are required (rather than specific documents).

If a Freedom of Information application is lodged for documents which could be made available under section 12 of the Local Government Act 1993, the Council will contact the applicant. If the applicant agrees to withdraw the Freedom of Information application and written confirmation is received, Council will refund the application fee and process the application under the Local Government Act. If the applicant does

not wish to withdraw the application the matter will be dealt with in accordance with the provisions of the Freedom of Information Act 1989.

If your application is refused, only partly granted, or you are unhappy with the fees charged, you can seek an internal review of the decision. This is a review of the decision by a more senior person within the organisation. You have 28 days from the date of the decision in order to lodge an application for internal review.

The application for review should be in writing and addressed to the Principal Officer of the agency. You must specify the decision you want reviewed and include the review fee of \$40 or \$20 if the original fee was reduced. The agency must then make a decision on your application for review within 14 days. If you do not have a response within 14 days, it is considered to be a refusal.

If you are still not happy with the outcome of the internal review you can seek review by the NSW Ombudsman, who can investigate the decision and make recommendations.

You can then appeal to the Administrative Decisions Tribunal within 60 days of the Ombudsman's decision or refusal to investigate. Alternatively, you can appeal directly to the ADT following an internal review.

22. How can Council assist those seeking historical information about a property?

Council provides a search, retrieval and research service involving detailed examination of files and databases which may contain information about particular properties where the information is not held in current files or information systems. The service is available, subject to the fees details in Council's Schedule of Fees and Charges. Depending on the nature of the request, the owner's consent may be required before the provision of documents or reports, particularly where access to plans or other similar documents is sought.

Appendix 1

Public Registers Maintained by Council

In the case of any register that contains personal or health information Council reserves the right to satisfy itself that access by any person is for a purpose consistent with the purpose for which the register was created. Some registers maintained by Council such as the Rates Record are not available for public inspection.

The following registers maintained by Council are available for public inspection as required by law:

- ☐ Section 94 Register of Contributions required in connection with approval of a development application.
- ☐ Register of Development Applications (see Appendix 5 for details).
- ☐ Register of Building Certificates.
- ☐ Register of Development Consents.
- ☐ Register of Construction Certificates.
- ☐ Register of Complying Development Certificates. (See Appendix 4 for details).
- ☐ Register of Subdivision Certificates.
- ☐ Register of Council Land.
- ☐ Register of Pecuniary Interests.
- ☐ Delegations Register.
- ☐ Roll of Occupiers & Rate-paying Lessees.
- ☐ Non-Residential Roll.
- ☐ Pollution Control Notices.
- ☐ Register of Skin Penetration Premises.

Appendix 2

Register of Development Applications and Consents

Council maintains a Register of Development Applications and Consents as required by section 100 of the Environmental Planning and Assessment Act 1979. The Register is available for public inspection (clause 268 of Environmental Planning and Assessment Regulation 2000/Section 12(1) of the Local Government Act) by any person who has a legitimate interest in ascertaining the status of any application lodged with Council. A person may copy a single entry or page of the Register, but if copies of additional information are sought, Council may require information about the purpose for which the information will be used.

Clause 264 of the Environmental Planning and Assessment Regulation 2000 sets out the requirements regarding the Register:

- (1) A council must maintain a register containing details of the following matters for each Development Application that is either made to it as the consent authority or furnished to it in cases where it is not the consent authority:
 - (a) the registered number of the application,
 - (b) the date when the application was made,
 - (c) the amount of any fee payable in connection with the application,
 - (d) the date or dates when any such fee, or any part of such fee, was paid,
 - (e) the date when the application was determined.
- (2) The register must also contain details of the following matters for each development consent:
 - (a) the name and address of the person to whom the consent was granted,
 - (b) the address, and formal particulars of title, of the land to which the consent relates,
 - (c) the date when the consent was granted,
 - (d) a brief description of the subject-matter of the consent, including a statement as to the nature of the development (residential, commercial, industrial or other),
 - (e) any conditions to which the consent is subject,
 - (f) the duration of the consent,
 - (g) the date when the consent became effective,
 - (h) whether the consent has been revoked, modified or surrendered,
 - (i) the date when any notice was published in respect of the consent as referred to in section 101 of the Act,
 - (j) the date of issue of any related construction certificates,
 - (k) the date of commencement of building or subdivision work the subject of the consent,

- (l) the name and accreditation number of the principal certifying authority appointed in relation to a consent involving building or subdivision work,
 - (m) in the case of a consent concerning residential building work (within the meaning of the *Home Building Act 1989*):
 - (i) the names of licensees and owner-builders, and
 - (ii) the names of the approved insurers (where relevant) of the licensees under Part 6 of the *Home Building Act 1989*, and
 - (iii) the numbers endorsed on contractor licences and permits of which the council is informed under the requirements of this Regulation,
 - (n) the date of issue of any related subdivision or occupation certificate,
 - (o) any approvals taken, by section 78A of the Act, to have been granted under the *Local Government Act 1993*,
 - (p) any approvals under an Act that were considered as part of the integrated development process.
- (3) The register must contain the following indexes of the development consents referred to in subclause (2):
- (a) an index prepared by reference to the address of the land to which each development relates,
 - (b) an index prepared by reference to the chronological order of the granting of each development consent.
- (4) For the purposes of section 100 of the Act, the prescribed form for the register is a book in loose-leaf form or an electronic data retrieval system.

Appendix 3

Documents Relating to Development Applications and Consents

After a decision has been made on an application for development, the development application and all related documents are available for inspection subject to the restrictions set out in Question 6 above. Council staff will assess each request for information taking these restrictions into account. As a guide the following documents are required to be made available for public inspection by Clause 266 of the Environmental and Planning and Assessment Regulation 2000:

(1) A council must keep the following documents for each development application and each development consent resulting from a development application:

- a. the development application (see Schedule 1 of Environmental and Planning and Assessment Regulation 2000 for information to be included in development application),
- b. the relevant section 81 notice to the applicant,
- c. any instrument by which some other development consent or existing use right has been modified or surrendered,
- d. the decision of the Land and Environment Court, in the case of a development consent granted by the Court on appeal from the determination of the council,
- e. the Minister's determination of the application, in the case of an application determined by the Minister for State significant development or an application determined by the Minister under section 80(7) of the Act,
- f. any recommendations made by relevant employees of the council with respect to the determination of the application,
- g. if the development consent has been revoked, modified or surrendered, the instrument of revocation, modification or surrender,
- h. if a notice has been published in respect of the development consent as referred to in section 101 of the Act, a copy of the page of the newspaper in which the notice was published,
- i. the notification of the determination to issue a construction certificate relating to the consent and the certificate and any related plans, specifications and any other documents that were forwarded to the council,
- j. the notification of the appointment of the principal certifying authority and the notification of the commencement of building or subdivision work relating to the development the subject of the consent,
- k. the notification of the determination of an application for an occupation certificate relating to any building the subject of the consent,
- l. the notification of the determination of an application for a subdivision certificate relating to any subdivision the subject of the consent and the endorsed plan of subdivision,
- m. the notification of the determination of any application for a compliance certificate relating to the development the subject of the consent and any

relevant plans and specifications and other documents relating to the compliance certificate,

- n. a decision of the Land and Environment Court in the case of an occupation certificate, subdivision certificate or construction certificate issued by the Court on appeal from a determination of the council,
 - o. details of approved alternative solutions relating to construction certificates or compliance certificates together with details of the assessment methods used to establish compliance with the relevant performance requirements.
- (2) A council must keep the documents referred to in subclause (1) that are furnished to it in accordance with this Regulation by any other consent authority or certifying authority in those cases where the council is not the consent authority or certifying authority.

Appendix 4

Register of Complying Development Applications

Council maintains a Register of Complying Development Applications as required by Section 100 of the Environmental Planning and Assessment Act 1979. The Register is available for public inspection (Clause 265 of Environmental Planning and Assessment Act 2000) by any person who has a legitimate interest in ascertaining the status of any application lodged with Council. A person may copy a single entry or page of the Register but if copies of additional information are sought, Council may require information about the purpose for which the information will be used.

The following provision of the Environmental Planning and Assessment Regulation 2000 sets out the requirements regarding the Register:

- (1) A council must maintain a register containing details of the following matters for each complying development certificate whether or not the council is the certifying authority:
 - a. the date when the application was made,
 - b. the name and address of the person making the application,
 - c. the address, and formal particulars of title, of the land to which the certificate relates,
 - d. the date when the certificate was granted or refused,
 - e. in the case of a certificate concerning residential building work (within the meaning of the *Home Building Act 1989*):
 - (i) the names of licensees and owner-builders, and
 - (ii) the names of the approved insurers (where relevant) of the licensees under Part 6 of the *Home Building Act 1989*, and
 - (iii) the numbers endorsed on contractor licences and permits of which the council is informed under the requirements of this Regulation,
 - (iv) the date of issue of any related subdivision or occupation certificate,
 - (v) the date on which notice of the granting of the certificate was published under section 101 of the Act.
- (2) The register must contain the following indexes of the complying development certificates referred to in subclause (1):
 - a. an index prepared by reference to the address of the land to which each certificate relates,
 - b. an index prepared by reference to the chronological order of the granting of each certificate.
- (3) The register is to be kept in the form of a book, in loose-leaf form, or in the form of an electronic data retrieval system.
- (4) The register under this clause is the register prescribed for the purposes of section 100 of the Act.

Appendix 5

Documents Relating to Complying Development Certificates and Construction Certificates

After an application for a complying development certificate, the following documents are available for public inspection as required by the Environmental and Planning and Assessment Regulation 2000 (Clause 267 and 268):

- (1) the determination of the application for a complying development certificate including any related plans and specifications,
- (2) Any notice that has been published in respect of the complying development as referred to in section 101 of the Act and a copy of the page of the newspaper in which the notice was published,
- (3) The notification of the appointment of the principal certifying authority and the notification of the commencement of building or subdivision work relating to the development the subject of the complying development certificate,
- (4) The notification of the determination of an application for an occupation certificate relating to any building the subject of the complying development certificate,
- (5) The notification of the determination of an application for a subdivision certificate relating to any subdivision the subject of the complying development certificate and the endorsed plan of subdivision,
- (6) The notification of the determination of any application for a compliance certificate relating to the development the subject of the complying development certificate,
- (7) A decision of the Land and Environment Court in the case of an occupation certificate or subdivision certificate issued by the Court on appeal from a determination of the council, and
- (8). Details of approved alternative solutions relating to compliance certificates, together with details of the assessment methods used to establish compliance with the relevant performance requirements.

Director, Governance & Financial Services' Report 78/2007



SUBJECT:	COMMUNICATION THROUGH SMS

DATE:	31 October, 2007	FILE NO:	F2007/00189

REPORT BY: DIRECTOR, GOVERNANCE & FINANCIAL SERVICES

INTRODUCTION:

In September 2007, a Mayoral Minute was submitted proposing that Council establish a system for communicating with residents through SMS.

The Mayoral Minute indicated a report would be submitted outlining costs, resources, and benefits of a SMS communication system. This is detailed below.

ISSUES:

A SMS communication system would allow for an innovative way for communication between Council and the residents of the LGA. There are a number of communication initiatives possible by the implementation of SMS technology including:

- Broadcast SMS messages - residents electing to opt into predefined message categories receive scheduled messages based on the category of message chosen (eg Council Cleanup Day reminders),
- Incoming SMS to email – allows residents to SMS issues into Council (the SMS is converted to email and sent to an actioning officer),
- Outgoing email to SMS – this allows officers another means of replying to residents queries
- Bounce back alerts – for example: residents would be able to SMS a sports field name during wet weather to a predefined number and they would receive a SMS reply indicating if the ground was open or closed for activities.

There are a number of SMS gateway providers in the market capable of allowing bulk SMS messages to be sent. The capability of these providers vary significantly: from budget gateways offering cheap message rates by utilising international gateways and bypassing local interconnect fees; to a more full service gateway provider using a Australian gateway fully complying with governmental regulations.

The budget gateway providers offer little in functionality and would require an application to be developed by Council to manage the incoming and outgoing messages where as the full service gateway providers are able to offer pre-existing “out of the box” applications to manage the messaging operations.

SMS Communication Solution Scenarios

Three scenarios have been investigated as a means of delivering the desired SMS communication functionality to Council. The scenarios investigated were:

1. Web Originated – Full Service Gateway Provider,
2. Web Originated – Budget Gateway Provider,
3. Mobile Originated – Full Service Gateway Provider.

The Web Originated – Full Service Gateway Provider scenario would allow for residents to participate in all four of the communication initiatives: broadcast SMS, SMS to email, email to SMS, and bounce back alerts.

This scenario provides for the provision of:

- Development of a web page to allow residents to select categories of messages they choose to opt in and out of,
- Sending of a confirmation SMS to the mobile number entered requiring the mobile phone holder to conform opting in, thus preventing unsolicited messages being sent,
- Supply of software to manage message categories, subscriptions, bounce backs, and sending / scheduling of messages
- Supply of software to receive SMS and redirect to email
- Supply of software to redirect email to SMS

Refer to Attachment 1 for a breakdown of tasks and associated cost estimates.

The Web Originated – Budget Gateway Provider scenario would allow for residents to participate in two of the communication initiatives: broadcast SMS and SMS to email.

This scenario provides for the provision of:

- Development of a web page to allow residents to select categories of messages they choose to opt in and out of,
- Development of a module to send a confirmation SMS to the mobile number entered requiring the mobile phone holder to conform opting in, thus preventing unsolicited messages being sent,
- Development of software to manage message categories, subscriptions, bounce backs, and sending / scheduling of messages
- Development of software to receive SMS and redirect to email.

Refer to Attachment 2 for a breakdown of tasks and associated cost estimates.

The Mobile Originated – Full Service Gateway Provider scenario would allow for residents to participate in all four of the communication initiatives: broadcast SMS, SMS to email, email to SMS, and bounce back alerts.

This scenario provides for the provision of:

- Supply of software to manage message categories, subscriptions, bounce backs, and sending / scheduling of messages
- Supply of software to receive SMS and redirect to email
- Supply of software to redirect email to SMS.

Refer to Attachment 3 for a breakdown of tasks and associated cost estimates.

Benefits

Some of the benefits possible with the introduction of a SMS communication system would include:

- Ability for call centre staff to quickly and easily send phone numbers, dates of events, etc to residents that are on the go and do not have the ability to write down the information given;

- Broadcast SMS messages and the ability for residents to report issues, including emergencies, via SMS may reduce incoming call numbers to the call centre, thus increasing efficiency;
- An additional method of communication in line with the more tech-savvy component of the population;
- The community can be better informed of events and other happenings in the Council area by the scheduled broadcast messages;
- Excuses for non-payment by creditors will be harder to come by if automated reminders are being sent to them;
- There will be a marked improvement in direct communication with residents and ratepayers which will strengthen ties between Council and its residents;
- Will save on the amount of reminders having to be both printed and posted to residents and ratepayers;
- Considerable savings in expenses as SMS is a faster and cheaper means of communication than postage;
- This service is innovative and shows our community why Randwick is now an industry leader in local government;
- This service will result in a greater percentage of debts recovered in a timely manner and subsequently an increase in the level of interest earned by Council.

Legislative Requirements

The implementation of a SMS communication system will require Council to abide by the following Acts / Regulations where appropriate.

- Telecommunications Act 1997
- Spam Act 2003
- Privacy Act 1988
- TISC Code of Practice – June 2007 (Telephone Information Services Standards Council)
- Australian eMarketing Code of Practice – March 2005

Costs

Estimated costs have been calculated based on the three scenarios investigated. Scenario two requires more upfront costs due to the need for software to be developed to manage the messaging process and hardware to be purchased. The quantity of messages used in the cost calculations has been calculated on the assumption of 54,000 waste service properties with only one phone holder per household opting in to a particular broadcast message category. A number of example message categories were used in the calculation and different opt in percentages were used to come up with a typical scenario. Refer to Attachment 4 to see the breakdown of message numbers.

An indication of associated risk is also included for each scenario. Scenario two represents a higher risk as it relies on a significant amount of creating software and managing the technology whereas the other two scenarios are largely using proven "out of the box" software and technology.

Incoming SMS messages received from residents represent zero cost to Council and so have no effect on the cost comparison.

The cost summary comparison in the table below highlights that even though the SMS message rates may be cheaper with a budget carrier, the upfront costs and costs associated with maintaining the environment outweigh any savings.

	Scenario 1	Scenario 2	Scenario 3
Setup Cost	12,000	50,000	1,600
Annual Software	12,480	19,200	12,480
Annual Message*	36,000	19,200	36,000
Total Cost for 1 year	60,480	88,400	50,080
Risk	Low	High	Low

* Based on 20,000 messages per month (1 message = 160 characters)

Cost Summary Comparison

Premium SMS

A number of SMS campaigns in the community utilise premium SMS services. This is where the end user pays to receive SMS messages on a subscription basis. This model of operation would not be considered appropriate as the information proposed to be sent by Council is freely available in the public arena. If Council were to charge for such a service it would contravene the TISC Code of Practice.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome: An Informed and Engaged Community.

Direction: Innovative communication methods and technology are used to share and obtain information.

FINANCIAL IMPACT STATEMENT:

As the number of messages to be sent by SMS is relative unknown, it is difficult to provide a true indication of the financial impact. Based on the message volumes estimated of approximately 20,000 messages per month, the annual cost would be in the order of \$60,000. Included in this is the annual software component which would be approximately \$12,000. The annual cost could be funded jointly from the Administrative Services and Information Technology Services budgets.

CONCLUSION:

Communication to residents utilising SMS technology would be of benefit to Council and the community. The recommended scenario to implement is Scenario 1 - Web Originated – Full Service Gateway Provider. This scenario makes use of existing technology and software and only a relatively small effort of development is required to set up a web page to allow users to opt in/out of message alert categories.

RECOMMENDATION:

That the communication by SMS proposal be endorsed and quotes be sought to supply and implement the SMS communication system for a trial period of twelve months. At the end of the twelve month trial period a review report be provided outlining the quantity of messages sent and received, the realised benefits, and a review of messaging costs.

ATTACHMENT / S:

SMS Scenario 1 - Web Originated: Full Service Gateway Provider
SMS Scenario 2 - Web Originated: Budget Gateway Provider
SMS Scenario 3 - Mobile Originated: Full Service Gateway Provider
Message Volume Estimates

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Scenario 1 – Web Originated – Full Service Gateway Provider**Requirements****Outgoing Notices**

- Create web page listing message categories with functionality to allow user to opt in / opt out.
- User opts in / out via keyword to a single 04xx number
- API to vendor provided/hosted application that stores database of mobile numbers and manages messages (API sends email to service provider)
- Confirmation SMS sent to confirm opt in / opt out
- User needs to confirm with a "YES" or "NO"
- Out of the box application for number/message management
- Use application to send / schedule messages by message category group

Incoming SMS

- Can be either by keyword to existing 04xx number or have a separate 04xx number (additional cost, but easier for user)
- User sends SMS to 04xx number
- SMS converted to email by gateway provider application
- Email actioned by RCC officer and CRM created manually (automated integration into CRM system would be cost prohibitive)
- Email → SMS response by RCC officer with CRM number

Benefits

- Minimal custom development
- Uses existing technology
- Process managed by third party
- No ongoing software development
- Single provider
- Minimal additional in house technical skills / resources required to manage service – system availability managed by others
- Possibly could have ability for user to choose between receiving SMS or email
- Incoming SMS possible with no further development, i.e. all out of the box functionality
- Privacy Act would be responsibility of the vendor

Disadvantages

- Initial cost higher than other options

Estimated Cost

Item	Approx Cost
Web Page / API Development (approx 15 days)	\$12,000
Application (includes hosting, software, application, one 04xx number)	\$990 / month
Additional Phone Number (for incoming SMS)	\$50 / month
Messages	\$3000 / month
Total Cost Over One Year	\$60,480
Total Cost Over Two Years	\$108,960
Total Cost Over Three Years	\$157,440

Scenario 2 – Web Originated – Budget Gateway Provider**Requirements****Outgoing Notices**

- Create web page listing message categories with functionality to allow user to opt in / opt out.
- Create application to store numbers, manage active numbers, and manage message handling (minimal functionality)
- Create module for confirmation of opt in / opt out
- User needs to confirm with a "YES" or "NO"
- Use custom built application to send / schedule messages by message category group

Incoming SMS

- SMS to separate 04xx number
- User sends SMS to 04xx number
- Develop application to convert SMS to email
- Email actioned by RCC officer and CRM created manually (automated integration into CRM system would be cost prohibitive)
- Email → SMS response by RCC officer with CRM number (some development may be required)

Benefits

- Cheaper message rates

Disadvantages

- Limited functionality compared with out of the box solution
- Higher risk
- Additional in house technical skills / resources required to manage service, hence higher ongoing maintenance costs
- SMS messages may not be Australian originated
- Custom application development required
- RCC responsibility to comply with Privacy Act, etc

Estimated Cost

Item	Approx Cost
Web Page Development (approx 15 days)	\$12,000
Application Development (approx 35 days)	\$28,000
Additional Hardware	\$10,000
Phone Number Monthly Access Fee (x2)	\$100 / month
Management of System / System "Fixes (approx 1 day / month)	\$1500 / month
Messages	\$1600 / month
Total Cost Over One Year	\$88,400
Total Cost Over Two Years	\$126,800
Total Cost Over Three Years	\$165,200

Scenario 3 – Mobile Originated - Full Service Gateway Provider**Requirements**

- Similar to Option 1, but all opt in / opt out done by keyword messages by user instead of via web site

Benefits

- Less web page development / maintenance
- Easier to manage than Option 1

Disadvantages

- Slightly more difficult for user to opt in / opt out compared with Option 1

Estimated Cost

Item	Approx Cost
Web Page Development (approx 2 days)	\$1,600
Application (includes hosting, software, application, one 04xx number)	\$990 / month
Additional Phone Number (for incoming SMS)	\$50 / month
Messages	\$3000 / month
Total Cost Over One Year	\$50,080
Total Cost Over Two Years	\$98,560
Total Cost Over Three Years	\$147,040

Message Volume Estimates									
Households (Waste Services)	54,000								
			Total Number of Annual Messages by % Take Up						Typical
Message (Examples Only)	Frequency	Annualised Frequency	1%	2%	5%	10%	20%		Scenario
Household Cleanup	18 Zones @ 2 x Year	36	19,440	38,880	97,200	194,400	388,800		97,200
Garbage / Recycling	Weekly	52	28,080	56,160	140,400	280,800	561,600		56,160
Rates Reminder	Quarterly	4	2,160	4,320	10,800	21,600	43,200		2,160
Major Events	Weekly	52	28,080	56,160	140,400	280,800	561,600		28,080
Current Community Consultations	Weekly	52	28,080	56,160	140,400	280,800	561,600		28,080
RCC Weekly News	Weekly	52	28,080	56,160	140,400	280,800	561,600		28,080
		Annual Total	133,920	267,840	669,600	1,339,200	2,678,400		239,760
		Monthly Total	11,160	22,320	55,800	111,600	223,200		19,980
	Typical Rate (No Frills SMS Gateway Provider)		0.08	0.08	0.08	0.08	0.08		0.08
		Annual Cost	10,714	21,427	53,568	107,136	214,272		19,181
		Monthly Cost	893	1,786	4,464	8,928	17,856		1,598
	Typical Rate (Full Service SMS Gateway Provider)		0.15	0.15	0.15	0.15	0.15		0.15
		Annual Cost	20,088	40,176	100,440	200,880	401,760		35,964
		Monthly Cost	1,674	3,348	8,370	16,740	33,480		2,997

MOTIONS PURSUANT TO NOTICE

13.1 Notice of Rescission Motion by Councillors Nash, Seng & Tracey – Ordinary Council Meeting – 30 October, 2007 – Item 8.3 - Director, City Planning Report 90/2007 - 6 Gale Road, Maroubra – (DA/589/2007 & PROP033986)

That the resolution passed at the Ordinary Council Meeting held on 30th October, 2007 reading as follows:-

that:

Council as the consent authority, refuse development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No.589/07 for permission to erect a new garage at 6 Gale Road Maroubra for the following reasons;

1. The proposed garage does not comply with the objectives and performance requirements of the Development Control Plan for Dwellings and Attached Dual Occupancies in that siting of the proposed garage to the front of the dwelling and up to the front and side boundaries will detract from the appearance of the dwelling and the local streetscape.
2. The proposed garage does not comply with the objectives and performance requirements of the Development Control Plan for Dwellings and Attached Dual Occupancies in that the garage will occupy more than 35% of the width of the site.
3. The proposed garage does not comply with the objectives and performance requirements of the DCP for Dwellings and Attached Dual Occupancies in relation to Building Setbacks as it does not conform to the dominant setback along the street.

BE AND IS HEREBY RESCINDED.

Upon the abovementioned Rescission Motion being carried, it is intended to move the following motion:-

that:

1. that the development application be approved with standard conditions; and
2. the boundary wall of the garage be lowered to a maximum of 1 metre in height.

13.2 Motion By Councillor Procopiadis – Traffic Calming Devices in Kensington Road, Kensington. (F2004/06183 xr F2005/00171)

That a report be prepared for the installation of traffic calming devices in Kensington Road, just south of the intersection of Kensington Road and Addison Street, Kensington as vehicles are constantly travelling at an excessive speed as they approach this intersection and many schoolchildren cross this intersection going to and from Our Lady of the Sacred Heart School as do many elderly residents attending church.