



25 January 2021

Our Ref: DA/331/2019

NOTICE OF REVIEW OF DETERMINATION

*Issued under the Environmental Planning and Assessment Act 1979
Division 8.2*

Development Application No: DA/331/2019

Mr A Lee
61 Jennings St
MATRAVILLE NSW 2036

Property Address: 23 Belmore Road, RANDWICK NSW 2031

Description of Work: Section 8.2 Review of the refused development application with changes made including reduced number of boarding rooms, reduced building height and floor area, provision of motorcycle parking, provision of rooftop communal open space and associated changes. Original refused consent: Redevelopment of site including retention of ground level restaurant and front 2 storeys of building, with three level boarding house above comprising 11 boarding rooms, communal room and balcony, 1 car space, 16 bicycle spaces, garbage storage and associated works (Variation to height control) (Heritage Conservation Area).

Determination: Refused

Determination Date: 22 January 2021

Reason for refusal:

A THAT Council's original decision to refuse Development Consent No. DA/331/2019, 23 Belmore Road, RANDWICK be confirmed.

Yours faithfully,



William Jones
Coordinator Development Assessment

Rights of Appeal and Review of Determination:

If you are dissatisfied with this decision, you are advised that the determination of this application cannot be further reviewed under Division 8.2 of the Environmental Planning and Assessment Act 1979. However, Section 8.7 of the Environmental Planning and Assessment Act 1979 provides that you have the right of appeal against Council's decision to the Land and Environment Court.

<p>English</p> <p>If you need help to understand this letter, please come to Council's Customer Service Centre and ask for assistance in your language or you can contact the Telephone Interpreter Service (TIS) on 131 450 and ask them to contact Council on 1300 722 542.</p>	<p>Greek</p> <p>Αν χρειάζεστε βοήθεια για να καταλάβετε αυτή την επιστολή, παρακαλείστε να έρθετε στο Κέντρο Εξυπηρέτησης Πελατών της Δημαρχίας (Council Customer Service Centre) και να ζητήσετε βοήθεια στη γλώσσα σας ή τηλεφωνήστε στην Τηλεφωνική Υπηρεσία Διερμηνέων (Telephone Interpreter Service — TIS) τηλ. 131 450 και να ζητήσετε να επικοινωνήσουν με τη Δημαρχία τηλ. 1300 722 542.</p>	<p>Italian</p> <p>Se avete bisogno di aiuto per capire il contenuto di questa lettera, recatevi presso il Customer Service Centre del Municipio dove potrete chiedere di essere assistiti nella vostra lingua; oppure mettetevi in contatto con il Servizio Telefonico Interpreti (TIS) al 131 450 e chiedete loro di mettersi in contatto col Municipio al 1300 722 542.</p>
<p>Croatian</p> <p>Ako vam je potrebna pomoć da biste razumjeli ovo pismo, molimo dođite u Općinski služni centar za klijente (Council's Customer Service Centre) i zatražite pomoć na svom jeziku, ili možete nazvati Telefonsku službu tumača (TIS) na 131 450 i zamoliti njih da nazovu Općinu na 1300 722 542.</p>	<p>Spanish</p> <p>A la persona que necesite ayuda para entender esta carta se le ruega venir al Centro de Servicios para Clientes [Customer Service Centre] de la Municipalidad y pedir asistencia en su propio idioma, o bien ponerse en contacto con el Servicio Telefónico de Intérpretes ["TIS"], número 131 450, para pedir que le comuniquen con la Municipalidad, cuyo teléfono es 1300 722 542.</p>	<p>Vietnamese</p> <p>Nếu quý vị không hiểu lá thư này và cần sự giúp đỡ, mời quý vị đến Trung Tâm Dịch Vụ Hướng Dẫn Khách Hàng của Hội Đồng Thành Phố (Council's Customer Service Centre) để có người nói ngôn ngữ của quý vị giúp hay quý vị có thể liên lạc Dịch Vụ Thông Dịch qua Điện Thoại (TIS) ở số 131 450 và yêu cầu họ liên lạc với Hội Đồng Thành Phố (Council) ở số 1300 722 542.</p>
<p>Polish</p> <p>Jeśli potrzebujesz pomocy w zrozumieniu treści tego pisma, przyjdź do punktu obsługi klientów (Customer Service Centre) przy Radzie Miejskiej i poproś o pomoc w języku polskim, albo zadzwoń do Telefonicznego Biura Tłumaczy (Telephone Interpreter Service — TIS) pod numer 131 450 i poproś o skontaktowanie się z Radą Miejską (Council) pod numerem 1300 722 542.</p>	<p>Indonesian</p> <p>Jika Anda memerlukan bantuan untuk memahami surat ini, silakan datang ke Pusat Pelayanan Pelanggan (Customer Service Centre) Pemerintah Kotamadya (Council) dan mintalah untuk bantuan dalam bahasa Anda, atau Anda dapat menghubungi Jasa Juru Bahasa Telepon (Telephone Interpreter Service - TIS) pada nomor 131 450 dan meminta supaya mereka menghubungi Pemerintah Kotamadya pada nomor 1300 722 542.</p>	<p>Turkish</p> <p>Bu mektubu anlamak için yardima ihtiyaciniz varsa, lütfen Belediye'nin Müşteri Hizmetleri Merkezi'ne gelip kendi dilinizde yardım isteyiniz veya 131 450'den Telefonla Tercüme Servisi'ni (TIS) arayarak onlardan 1300 722 542 numaradan Belediye ile ilişkiye geçmelerini isteyiniz.</p>
<p>Hungarian</p> <p>Amennyiben a levél tartalmát nem érti és segítségre van szüksége, kérjük látogassa meg a Tanácsház Ügyfél Szolgálatát (Customer Service Centre), ahol magyar nyelven kaphat felvilágosítást, vagy hívja a Telefon Tolmács Szolgálatot (TIS) a 131 450 telefonszámon és kérje, hogy kapcsolják a Tanácsházat a 1300 722 542 telefonszámon.</p>	<p>Czech</p> <p>Jestliže potřebujete pomoc při porozumění tohoto dopisu, navštivte prosím naše Středisko služeb pro veřejnost (Council's Customer Service Centre) a požádejte o poskytnutí pomoci ve vaší řeči anebo zavolejte Telefonní tlumočnickou službu (TIS) na tel. číslo 131 450 a požádejte je, aby oni zavolali Městský úřad Randwick na tel. číslo 1300 722 542.</p>	<p>Arabic</p> <p>إذا أردت مساعدة لفهم هذه الرسالة، نرجوك الحضور إلى مركز خدمة عملاء المجلس وأطلب المساعدة في لغتك، أو يمكنك الاتصال بخدمة الترجمة الهاتفية (TIS) على هاتف رقم 131 450 وأطلب منهم الاتصال بالمجلس على رقم 1300 722 542.</p>
<p>Chinese</p> <p>如果你需要人幫助你了解這封信的內容，請來市政會顧客服務中心要求翻譯服務，或者與電話傳譯服務 (TIS) 聯係，號碼是 131 450。請他們幫助你打電話給市政會，號碼是 1300 722 542。</p>	<p>Russian</p> <p>Если Вам требуется помощь, чтобы разобраться в этом письме, то, пожалуйста, обратитесь в Муниципальный Центр Обслуживания Клиентов и попросите оказать Вам помощь на Вашем языке или же Вы можете позвонить в Телефонную Службу Переводчиков (TIS) по номеру 131 450 и попросить их связаться с Муниципалитетом по номеру 1300 722 542.</p>	<p>Serbian</p> <p>Ako vam treba pomoć da razumete ovo pismo, molimo vas da dođete do Centra za usluge mušterijama pri Opštini (Customer Service Centre) i zamolite ih da vam pomognu na vašem jeziku, ili možete nazvati Telefonsku prevodilačku službu (TIS) na 131 450 i zamolite ih da vas povežu sa Opštinom na 1300 722 542.</p>

DA REPORT – Division 8.2 Review

Folder /DA No:	DA/331/2019
Property:	23 Belmore Road, RANDWICK
Proposal:	Division 8.2 review of determination - review of refused DA for redevelopment of the site including retention of ground level restaurant and front 2 storeys of building, with three level boarding house above comprising 11 boarding rooms, communal room and balcony, 1 car space, 16 bicycle spaces, garbage storage and associated works.
Ward:	West
Applicant:	Mr A Lee
Owner:	Mr A Lee and Mrs L Li
Author:	Thomas Mithen
Recommendation:	Refusal

Proposal

This application seeks the review of a refused DA for redevelopment of the site including retention of ground level restaurant and front 2 storeys of building, with three level boarding house above comprising 11 boarding rooms, communal room and balcony, 1 car space, 16 bicycle spaces, garbage storage and associated works.

The Applicant lodged a S8.2 Review application on 1 September 2020 requesting a review of the application following refusal of the DA by the RLPP on 11 June 2020. It is noted that due to COVID 19, the Department of Planning has extended the 6-month appeal rights time period to 12 months, and therefore this review can be determined within 12 months from the date of refusal.

The following amendments have been made to address the reasons for refusal:

- deletion of 2 boarding rooms fronting Belmore Road at Level 3 reducing the total number of boarding rooms from 11 to 9 boarding rooms;
- provision of an outdoor communal terrace at Level 3 fronting Belmore Road;
- revised floor to ceiling heights to 2.7m for habitable areas of the boarding rooms;
- provision of 2 motorcycle spaces in lieu of an accessible parking space;
- simplification of the external materiality; and
removal of the internal layout of ground floor retail/restaurant tenancy.

As a result of the amended design, the proposed amended development description now reads: retention of ground level restaurant and front 2 storeys of building, with three level boarding house above comprising 9 boarding rooms, communal room / communal outdoor terrace, 2 motorcycle spaces, 16 bicycle spaces, garbage storage and associated works.

Relevant history

DA/331/2019 was refused by Randwick Local Planning Panel on 11 June 2020 for the following reasons (the applicant's response to the reasons for refusal also provided):

1. *A written request to vary Clause 4.4 floor space ratio pursuant to the RLEP was not submitted and therefore consent cannot be granted.*

Applicant's response: FSR request not required. FSR is under the maximum allowed for the site.

Council's response: It is agreed that the amended scheme complies with the maximum FSR.

2. *The variation to Clause 4.3 height of buildings pursuant to the RLEP is not supported given the applicant's written request has not adequately demonstrated those matters that are required to be demonstrated in accordance with Clause 4.6 (3) and the variation is not within the public interest in accordance with Clause 4.6 (4).*

Applicant's response: Variation for height limit LEP 4.3 is now not applicable – 12m height plane is correct and shown on section DA-400. Building remains under height plane.

Council's response: A variation is proposed at the north-eastern corner of the site adjacent to the laneway (RL 81.146) above existing ground level (RL 69) as shown on the survey plan. The proposed development is therefore 12.146m and exceeds the maximum building height control. No written request to vary the building height standard pursuant to Cl 4.6 of the RLEP was provided, therefore consent cannot be granted.

3. *The variation to Clause 30 (1) (h) pursuant to the ARH SEPP is not supported because the variation is not within the public interest in accordance with Clause 4.6 (4) pursuant to the RLEP.*

Applicant's response: 2 motorbike spaces included as per council advice, plus adequate bicycle spaces. This is consistent with council advice, and does not contravene RLEP Clause 4.6 (4).

Council's response: It is agreed that the amended scheme complies with the ARH motorcycle parking requirement.

4. *The development is not in accordance with Clause 30A character of the local area pursuant to the ARH SEPP.*

Applicant's response: Amendments have been made to address and emphasise the character of the local area – particularly Belmore Rd. These amendments should adequately address this Clause. Height, form and materials simplified and reduced to minimise visual impact, and emphasise local area heritage elements.

Council's response: It is agreed that the amended scheme has reduced bulk and scale to an acceptable level when viewed from Belmore Rd, however the bulk and scale at the rear of the site fronting the laneway does not comply with the maximum permitted building height and is

considered to be incompatible with the character of surrounding buildings in terms of number of storeys.

5. *The development does not comply with the ARH SEPP and RDCP in relation to minimum area of communal open space, solar access to communal living room and orientation of boarding rooms, resulting in poor residential amenity.*

Applicant's response: Retention of heritage room as communal room retains heritage elements, rather than converting to a boarding room – this includes accepting the solar access to the room and balcony. Communal open space dramatically increased to L03. Orientation of boarding rooms is resolved as much as possible given the site width and orientation. Maximum solar amenity provided by the open void to the landscaping below and improved by deleting the top level – resident amenity will be maximised.

Council's response: Concerns are still raised with the minimal solar access to boarding rooms and communal room, insufficient room sizes and poor orientation of boarding rooms.

6. *The development is not in accordance with Clause 5.10 heritage conservation pursuant to the RLEP given it will adversely impact the heritage qualities of the contributory buildings and the Randwick Junction Heritage Conservation Area.*

Applicant's response: As noted, further amendments have been made to make the building form smaller, simpler and more orthogonal on the important Belmore Rd heritage character, which will further reduce visibility to the street scape. Heritage elements will be enhanced rather than compromised with this development.

Council's response: It is agreed that the amended scheme has reduced bulk and scale to an acceptable level when viewed from Belmore Rd, which is in keeping with the qualities of the heritage conservation area.

Statutory requirements under Division 8.2

Division 8.2 of the Environmental Planning and Assessment Act 1979, as amended, enables an applicant to request a Review of a Determination of a Development Application; or an application for the modification of a development consent.

Council may accept amendments to the original development proposal if the proposed amendments result in substantially the same development as that originally described in the development application. Council may review the Determination, and as a consequence of the review, may confirm or change the Determination.

Substantially the same development

The proposed review of the determination does not fundamentally alter the nature of the original proposal and satisfies the definition of being substantially the same development.

Submissions

The owners of adjoining and neighbouring properties were notified of the review application and as a result of this notification three submissions were received.

21 Belmore Street

Issue	Comment
The proposed courtyard design model with a central light well and the requirement to provide appropriate amenity in terms of solar access, privacy and cross ventilation will adversely impact the development potential of the adjoining sites. The constraints of the site being small and narrow with adjoining built form make it difficult to provide an appropriately sized lightwell to address the amenity of the future occupants.	The highly constrained nature of the site is acknowledged, and the design rationale incorporating two built forms separated by a central courtyard unreasonably restricts the amenity of future development to the south that would need to adopt a similar minimal void area to maintain the separation that would be established by this development. Furthermore, the number of rooms is excessive, resulting in a substandard void area that will compromise internal amenity for the future occupants.

29 Belmore Street

Issue	Comment
The proposal will increase traffic in Bell Lane and result in the illegal use of car spaces on neighbouring properties.	Noted. The lack of on site car parking is a reason for refusal. It is noted however that should compliant car parking be provided, given the zoning of the site this proposed use is envisaged for the area and the resultant car movements would be supported.
The proposal will result in cumulative noise impacts to the neighbouring properties in the laneway	Noted. The proposal in its current form is not supported.

25 Belmore Street

Issue	Comment
Concerns raised the proposed works would have an adverse impact on the current tenants and it is requested that notification be provided of any building works.	Standard conditions can be imposed to protect the amenity of adjoining properties during the construction phase. However, the proposal in its current form is not supported.

Key Issues and areas of non-compliance

Car parking

The proposal seeks to replace the originally proposed accessible car space with two motorcycle spaces in the garage accessed directly from Bell Lane. No car spaces will be provided on the site.

The parking requirements for boarding houses are specified in the ARH SEPP which specifies a 'do not refuse' standard parking rate of 0.5 spaces per room (not being made by a social housing provider). The proposal will generate a parking demand of 4.5 spaces based on a total of 9 boarding rooms.

Under Council's DCP the parking demand for the restaurant (80m²) would be 2 spaces. The proposal therefore results in a parking shortfall of 6.5 car spaces on the site and is not supported.

It is considered that amalgamation with adjoining properties should occur to allow for improved opportunities for basement car parking for this particular land use.

CI 30A Character of the local area

Clause 30A of the ARH SEPP states: *A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.*

Planning comment: A planning principle has been established via *Project Venture Developments v Pittwater Council [2005] NSW LEC 191* to test whether a proposal is compatible with the character of the area on the basis that:

Where compatibility between a building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions should be asked.

- 1. Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
- 2. Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

In response to point no. 1 of the planning principle, the physical impacts on surrounding development is not acceptable given:

- The proposed 4 storey built form will result in adverse visual amenity impacts when viewed from adjoining properties in the laneway.
- The proposed void area is too minimal to permit adequate daylight and ventilation for the centrally orientated boarding rooms. This unreasonably restricts the amenity of future development to the south that would need to adopt a similar minimal void area to maintain the separation that would be established by this development.
- The extent of the car parking variation is a result of the number of boarding rooms proposed. This will unreasonably restrict the availability of on street parking for future development that may also need to rely on a (lesser) parking variation given the constraints of the respective sites.

In response to point no. 2 of the planning principle, the appearance of the building is not in harmony with the buildings around it and the character of the street given:

- The proposed 4 storey built form at the rear of the site visually contrasts with surrounding buildings in the laneway which are 2 to 3 storeys in height. The bulk and scale at the rear of the site fronting the laneway does not comply with the maximum permitted building height and is considered to be incompatible with the character of surrounding buildings in terms of number of storeys. The planning principal acknowledges that there are situations where extreme differences in scale and appearance produces good urban design involving landmark buildings. In this context however, there are no landmark

buildings and the excessive built form is considered to be overly dominant in its immediate context and not in harmony with other buildings.

Therefore, based on an assessment against the planning principle, the proposed development is not considered to be in accordance with the character of the area.

Internal Amenity

The proposal boarding rooms fronting the central void at the lower levels will not receive any solar access at the winter solstice. The void is too small to provide adequate sunlight and cross ventilation for the future occupants. A significant portion of this void space is taken up by circulation along the stair and almost no light reaches the courtyard at the winter solstice. A primary objective of private open space for boarding houses is to provide access to sunlight. In addition, the boarding rooms do not satisfy the minimum internal area requirements under the ARH SEPP, resulting in reduced useability and comfort for the future occupants. Furthermore, the communal living room at Level 1 will receive only 1 hour direct sunlight at the winter solstice and therefore does not satisfy the minimum 3 hours requirement under the ARH SEPP.

The proposal fails to provide an acceptable level of internal amenity for the future occupants and therefore represents an overdevelopment of the site and is not supported.

Detailed Assessment

Section 4.15 matters for consideration

The site has been inspected and the application has been assessed having regard to Section 4.15 of the Environmental Planning and Assessment Act, 1979, as amended.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	<p>The proposal does not satisfy the local character test under clause 30A of ARH SEPP.</p> <p>The proposal exceeds the 12m maximum height development standard under RLEP 2012.</p> <p>Refer to the discussion below.</p>
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal does not satisfy the objectives and controls of the Randwick Comprehensive DCP 2013. Refer to the Key Issues section of this report.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(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	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposal will result in detrimental environmental impacts on the locality.</p>
Section 4.15(1)(c) – The	The site has does not have sufficient area to

suitability of the site for the development	accommodate the proposed development due to the lack of on-site car parking and poor internal amenity for future occupants. Therefore, the site is not suitable for the proposed development.
Section 4.15(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 4.15(1)(e) – The public interest	The proposal does not promote the objectives of the zone as it will not exhibit a high standard of urban design due to the excessive bulk and scale at the rear of the site within the laneway streetscape. Accordingly, the proposal is not considered to be in the public interest.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) is applicable to the proposed development. Clause 29 provides – *Standards that cannot be used to refuse consent* and Clause 30 provides – *Standards for boarding houses*.

An assessment against these clauses is provided in Appendix 3. In summary, the proposal does not comply with the following:

Cl 29 Standards that cannot be used to refused consent

- Maximum permitted FSR (same as RLEP);
- Max building permitted building height (same as RLEP);
- Solar access to communal living room (3 hours required and 1 hour provided);
- Minimum area of communal open space (20m² required and 30m² provided); and
- Car parking (6 car spaces required and nil car spaces provided).

The proposal can therefore be refused based on these standards should compliance not be achieved.

Cl 30 Standards for boarding houses

- Motorcycle parking (2 spaces required and two spaces provided).

Cl 30A Character of the local area

The proposal is assessed as not being in accordance with the character of the local area based on an assessment against the planning principle established by *Project Venture Developments v Pittwater Council [2005] NSW LEC 191* (refer to Section 9.1 discussion of Key Issues). In summary, the 4 storey built form at the rear of the site is considered to be incompatible with the 2-3 storey character of surrounding buildings in the laneway. Therefore, the consent authority cannot grant consent in accordance with Clause 30A.

ARH SEPP Compliance Table

Assessment of Clause 29 – Standards that cannot be used to refuse consent		
Standard	Proposed	Compliance
<p>(1) Floor Space ratio The density and scale of the buildings when expressed as a floor space ratio are not more than:</p> <p><i>(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or</i></p> <p><i>(b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or</i></p> <p><i>(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:</i></p> <p style="padding-left: 40px;"><i>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less.</i></p>	<p>The maximum FSR for the site is 2:1 pursuant to the RLEP. The bonus FSR pursuant to the ARH SEPP is not applicable in this case given a residential flat building is not permitted with consent on this site pursuant to Clause 6.14 of the RLEP. This is because the existing building was originally designed and constructed as shop top housing and was not originally designed or constructed for the purposes of an RFB.</p> <p>Based on Council's calculation that includes the enclosed first floor landscaped area, the proposed FSR is 1.9:1 (435m²).</p>	Yes
<p>(2) (a) Building height <i>if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,</i></p>	<p>The maximum permitted building height is 12m.</p> <p>The top of the building in the north-eastern corner of the site adjacent to the laneway is at RL 81.146.</p> <p>The existing ground level below is at RL 69 as shown on the survey plan. The proposed development is therefore 12.146m and exceeds the maximum building height</p>	No

Assessment of Clause 29 – Standards that cannot be used to refuse consent		
Standard	Proposed	Compliance
	control. The non-compliance is likely to be greater when excluding the thickness of the existing garage slab.	
(b) Landscaped area <i>if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,</i>	No landscaping is proposed in the frontage, which is consistent with the business area that comprises buildings that are built to their respective front boundaries.	N/A
(c) Solar access <i>where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</i>	The communal living room at Level 1 will receive 1 hour direct sunlight at the winter solstice.	No
(d) Private open space <i>if at least the following private open space areas are provided (other than the front setback area):</i> <i>(i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,</i> <i>(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation,</i>	The communal open space at Level 3 is 30m ² .	Yes
(e) Parking <i>if:</i> <i>(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</i>	4.5 car parking spaces are required (0.5 parking spaces per boarding room). No car spaces will be provided.	No

Assessment of Clause 29 – Standards that cannot be used to refuse consent		
Standard	Proposed	Compliance
<p>(ii) <i>in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</i></p> <p>(iia) <i>in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</i></p> <p>(iii) <i>in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</i></p>		
<p>(f) Accommodation Size</p> <p><i>if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</i></p> <p>(i) <i>12 square metres in the case of a boarding room intended to be used by a single lodger, or</i></p> <p>(ii) <i>16 square metres in any other case.</i></p>	<p>Single Rm 1.02 = 11.6m² Single Rm 1.03 = 10.6m² Double 1.04 = 21.6m² Double Rm 2.01 = 20.6m² Double Rm 2.02 = 16.6m² Single Rm 2.03 = 10.6m² Double Rm 2.04 = 20.6m² Single Rm 3.01 = 10.6m² Double Rm 3.02 = 20.6m²</p> <p>The single rooms do not comply with the 12m² requirements. Note that the calculations above exclude a 600mm strip adjacent to the kitchen, which forms part of the usable area of the kitchen.</p> <p>If the 6m² of corridor space for double rooms 1.04, 2.04 and 3.02 is excluded then these rooms would not comply with the minimum 16m² internal area.</p>	No
<p>(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</p>	<p>All of the boarding rooms are provided with their own kitchen facilities, and bathroom facilities.</p>	Yes

Assessment of Clause 30 - Standards for Boarding Houses		
Standard	Assessment	Compliance
<i>1 (a) if a boarding house has 5 or more boarding rooms, at least one (1) communal living room will be provided.</i>	9 boarding rooms are proposed and a communal living room is provided at level 1.	Yes
<i>(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres.</i>	No boarding room exceeds 25m ² .	Yes
<i>(c) no boarding room will be occupied by more than 2 adult lodgers.</i>	The largest proposed rooms are double rooms.	Yes
<i>(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger.</i>	Adequate facilities are provided.	Yes
<i>(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager.</i>	A maximum of 14 boarders will occupy the boarding house, therefore a boarding house manager is not required.	N/A
<i>(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use.</i>	The land is zoned B2 Local Centre. No part of the ground floor that fronts a street is proposed to be used for residential purposes. The vehicular and pedestrian access that fronts Bell Lane is necessary to serve the site based on current planning controls and this entrance is also utilised by the GF commercial tenancy.	Yes
<i>(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.</i>	2 motorcycle and 2 bicycle parking spaces are required. Two motorcycle spaces are and 16 bicycle spaces are provided.	Yes

Assessment of Clause 30A - Character of the local area
Clause 30A of the ARH SEPP states: <i>A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.</i>

Assessment of Clause 30A - Character of the local area

Planning comment: The proposal is not assessed as being in accordance with the character of the area and therefore consent cannot be granted. Refer to Section 9.1, Discussion of Key Issues.

Randwick Local Environmental Plan 2012 (LEP)

The site is zoned B2 Local Centre under Randwick Local Environmental Plan 2012 and the proposal is permissible with consent.

The proposal is inconsistent with the specific objectives of the zone in that the proposed activity and built form will not facilitate a high standard of urban design or contribute to achieving a sense of place for the local community.

The following development standards in the RLEP 2012 apply to the proposal:

Clause	Development Standard	Proposal	Compliance
Cl4.3: Building height (max)	12m	12.146m Council is unable to approve the application because a written request in accordance with Clause 4.6 of RLEP 2012 seeking a variation to the building height development standard has not been submitted with the review application.	No
Cl4.4: Floor space ratio (max)	2:1 (450m ²)	1.9:1	Yes

Randwick Comprehensive DCP 2013
C4 Table: Boarding Houses

DCP Clause	Controls	Proposal	Compliance
2	Building Design		
2.1	Boarding Rooms Note: Skylights or windows opening to an internal hallway or corridor cannot be used as the sole source for light and air circulation. i) Orientate to receive the maximum amount of sunlight; ii) Provide a balcony, terrace or window opening to outdoor areas for natural light and ventilation; and	The inward-facing boarding rooms and balconies are not orientated to receive maximum sunlight. In particular, the 4 x boarding rooms at Levels 1 and 2 will not receive any direct sunlight at the winter solstice. It is also unlikely these rooms will receive adequate access to natural light and ventilation given the small size of the void. Also, the inward-facing balconies are less than 4m ² .	No

DCP Clause	Controls	Proposal	Compliance
	iii) Where provided, private open space in the form of a balcony or terrace must have a minimum useable area of 4 square metres.		
2.2	<p>Outdoor Communal Open Space</p> <p>i) Provide for all boarding houses, with a minimum total area of 20 square metres and a minimum dimension of 3 metres;</p> <p>ii) Provide at ground or podium level in the form of a courtyard or terrace area, accessible to all residents;</p> <p>iii) Locate and orientate to maximise solar access;</p> <p>iv) Incorporate both hard and soft landscaped areas;</p> <p>v) Provide shared facilities such as fixed outdoor seating benches, barbecues and the like to allow social interaction; and</p> <p>vi) Provide partial cover for weather protection, such as pergola, canopy or the like, where it does not cause unreasonable overshadowing on adjoining properties.</p>	Outdoor communal open space is provided at Level 3 and is 30m ² .	Yes
2.3	<p>Indoor Communal Facilities</p> <p>NOTE: The calculation of indoor communal areas can include any dining area, but cannot include boarding rooms, kitchens, bathrooms, laundries, reception area, storage, parking, hallways, corridors and the like.</p>	<p>Minimum required area = 20m².</p> <p>The communal room at Level 1 is 21m² excluding the kitchen and corridor.</p>	Yes.

DCP Clause	Controls	Proposal	Compliance
	<p>i) Provide with a minimum dimension of 3 metres and a minimum total area of 20 square metres or 1.2 square metres/resident, whichever is greater; and</p> <p>ii) Orientate to maximise solar access and have a northerly aspect where possible.</p>		
2.4	<p>Communal Kitchen Bathroom and Laundry Facilities</p> <p>i) For all boarding houses, provide communal kitchen, bathroom and laundry facilities where they are easily accessible for all residents, unless these facilities are provided within each boarding room;</p> <p>ii) For development of over 12 boarding rooms without en suite bathrooms, provide separate bathroom facilities for male and female residents;</p> <p>iii) Locate and design any communal laundry room to minimise noise impact on boarding rooms and neighbouring properties; and</p> <p>iv) Where possible, locate clotheslines to maximise solar access while not compromising the street amenity or usability of communal open space.</p>	All the boarding rooms are provided with individual facilities.	Yes
2.5	<p>Safety and Crime Prevention</p> <p>i) Locate building entry points and internal entries to living areas where they are clearly</p>	The entry to the boarding house is from Bell Lane through the parking area. This entry is not visible from the communal room / open space but is adjacent to various	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>visible from common spaces;</p> <p>ii) Locate a habitable living area (such as lounge room, kitchen, dining or bedroom) to allow general observation of the street and communal open space;</p> <p>iii) Separate ground level private open space from public and common areas by measures such as open fencing or low level plants; and</p> <p>iv) Select trees and low-lying shrubs that do not interfere with sight lines nor provide opportunities for concealment or entrapment.</p>	<p>common spaces (motorcycle and bicycle parking) that will be frequently used. The internal entry to the communal room / open space is visible from the common access.</p> <p>Habitable areas overlook both street frontages.</p> <p>No ground level open space is provided.</p> <p>No landscaping at the ground floor level is proposed nor able to be accommodated.</p>	
2.6	<p>Visual and Acoustic Amenity and Privacy</p> <p>i) Indicative locations of facilities and appliances for bathrooms, kitchens and laundries must be clearly shown on the DA plans/drawings;</p> <p>ii) Locate kitchen, dining room, lounge room and outdoor open space adjacent to or directly accessible from each other;</p> <p>iii) Locate similar uses (such as bedrooms or bathrooms) back to back, to minimise internal noise transmission;</p> <p>iv) Provide screen fencing, plantings and acoustic barriers where practicable to screen noise and reduce visual impacts;</p>	<p>Facilities and appliance locations are detailed.</p> <p>Communal open space is directly adjacent to the communal living room.</p> <p>Similar uses are located back to back.</p> <p>Communal areas are not expected to result in adverse acoustic impacts.</p> <p>The main entry to the boarding rooms is provided off Bell Lane, which given the constraints of the site and the existing ground floor commercial use is the only practical location.</p>	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>v) Where possible locate the main entry point at the front of the site, away from the side boundary and adjoining properties;</p> <p>vi) Locate communal open space, balconies and windows to bedrooms or communal areas, to minimise overlooking, privacy and acoustic impacts on adjoining properties;</p> <p>vii) An acoustic report prepared by a suitably qualified acoustic consultant must be submitted for new development or conversions/intensifications with an increase in resident numbers. The report must:</p> <ul style="list-style-type: none"> • Establish the existing background noise levels; • Identify all potential noise sources from the operation of the premises, including any mechanical plant and equipment; • Estimate the level of potential noise emission; • Establish desirable acoustics performance criteria; and recommend any mitigation measures (such as sound proofing construction and/or management practices) required to achieve relevant noise criteria. 		
3	Management Plan		
	i) Submit a Management Plan with all DAs for new and existing boarding houses, that addresses the general requirements	A suitable POM was submitted with the original DA.	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>outlined in the Management Plan section in Part B, and the following specific requirements:</p> <ul style="list-style-type: none"> a) Criteria and process for choosing residents. Preference should be given to people on low and moderate incomes; b) A schedule detailing minimum furnishings for boarding rooms, provision of facilities and appliances for kitchens, bathrooms and laundry rooms and maximum occupancy of each room; c) House rules, covering issues such as lodger behaviour, visitor and party policies, activities and noise control, use and operation hours of common areas (e.g. communal open space and living rooms) and policies for regulating smoking and consumption of alcohol and illicit drugs; d) Professional cleaning and vermin control arrangements for at minimum, the shared facilities, such as kitchens and bathrooms; 		

DCP Clause	Controls	Proposal	Compliance
	<p>e) Public notice and signs, including:</p> <ul style="list-style-type: none"> - A sign showing the name and contact number of the manager/caretaker, placed near the front entry and in a visible position to the public; - Clear display of fixed room identification number for each boarding room; and - Internal signage prominently displayed in each boarding room and/or communal living areas informing maximum number of lodgers per room, house rules, emergency contact numbers for essential services, annual fire safety statement and current fire safety schedule and emergency egress routes and evacuation plan. <p>ii) The manager/caretaker must maintain an up-to-date accommodation register with information on residents' details, length of stay, etc. and provide to Council officers upon request.</p>		

D3 Table: Randwick Junction Centre

DCP Clause	Controls	Proposal	Compliance
5	Visual Character		
	<p>i) Views and vistas should be addressed in the site analysis for new development, as they may necessitate adjustments to the built form and site layout, so that view corridors and vistas are not obstructed.</p> <p>ii) Development should fit within the wider townscape indicated by the view corridors and should not disrupt existing visual relationships.</p>	<p>The development will not impact any view corridors as identified in Figure 3 of clause 5 of this part of the RDCP.</p>	Yes
8	Site Planning		
	<p>i) Provide ground floor retail and/or commercial floor space along all business zoned street frontages, other than the frontage required for access.</p> <p>ii) In addition to the continuous commercial street frontage, the ground floor commercial area should have a minimum depth of 10 metres in order to achieve a viable shop or office size (except in heritage situations where it may be different).</p> <p>iii) Development should relate to the dimensions and shape of the site.</p> <p>iv) Development should integrate with the surrounding area through consideration of streetscape and landscape design and pedestrian and cycle links.</p> <p>v) Retain and integrate heritage items or contributory buildings and significant features such as</p>	<p>Ground floor retail/restaurant space is provided fronting Belmore Rd.</p> <p>The ground floor restaurant/retail has a depth of 14m.</p> <p>The size and scale of the proposed development is considered to be excessive based on the site constraints.</p> <p>There are no opportunities for streetscape landscaping and pedestrian / cycle links for this site.</p> <p>Council's Heritage Planner has not raised any objection to the proposal.</p> <p>The development is not considered to minimise impacts on the amenity of neighbouring sites due to adverse bulk and scale that results in visual amenity impacts and overshadowing.</p>	No

DCP Clause	Controls	Proposal	Compliance
	<p>stone fencing and retaining walls.</p> <p>vi) Development must minimise impacts on the amenity of neighbouring sites.</p>		
9	Building Envelope		
	<p>Note: The floor space ratio may not be achievable if the height control is not satisfied, or if residential amenity standards are not able to be maintained.</p> <p>i) The FSR and building height controls set by RLEP together with DCP envelope controls define the overall built form and scale of development.</p> <p>ii) New development should be built to the street alignment and to the side boundaries of the allotment.</p> <p>iii) Where adjoining and nearby development is set back from the street, new development should be consistent with the setbacks of adjoining development or the dominant setbacks along the street.</p> <p>iv) Where buildings are setback from the front boundary, such as the school and terraces along Avoca Street, fences are to be used to reinforce the street alignment and provide a strong visual transition point between public and private space.</p>	<p>The development exceeds maximum permitted building height standard. As discussed throughout this report, residential amenity will be compromised, and the bulk and scale associated with the non-compliant building height is unacceptable.</p> <p>In terms of setbacks, the development is consistent with adjoining buildings.</p>	No
10	Building Design		
10.1	<p>Shopfronts</p> <p>i) Original heritage shopfronts and detailing (e.g. doors, tiles, windows)</p>	The original shopfront is proposed to be retained.	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>and ornamental detailing) should be retained.</p> <p>ii) New shopfronts must be designed to reinforce the character of the locality and to ensure street level continuity. The form, scale and proportion of shopfront elements should be consistent with nearby heritage or contributory buildings/development.</p> <p>iii) Acceptable security measures include expanding metal grilles, open, perforated or clear shutters or shutter grilles which can be placed inside the shopfronts.</p> <p>iv) The use of solid roller shutters is unacceptable as these severely detract from the visual and heritage amenity of the area outside of business hours.</p> <p>v) The installation of "drop blind" type signs suspended from awnings is encouraged.</p>		
10.2	<p>Awnings</p> <p>i) Continuous awnings attached to buildings and covering all main pedestrian routes must be provided for pedestrian comfort.</p> <p>ii) Provide, as characterises many suburban shopping centres of similar age, steel framed awnings, suspended from wall brackets, and covering the 3.5m wide footpath.</p> <p>iii) The traditional box awnings are acceptable as</p>	<p>The existing awning is proposed to be demolished and replaced like-for-like. However, more details as to whether the existing awning is the original awning would be needed to determine whether the like for like replacement is appropriate.</p>	<p>Capable of complying.</p>

DCP Clause	Controls	Proposal	Compliance
	<p>they consolidate the centre's overall character.</p> <p>iv) Development should include a flat suspended/ cantilevered awning to provide continuous pedestrian shelter.</p> <p>v) Awning fascias should align with the awning of adjoining buildings, matching the established height above footpath level.</p> <p>vi) The depth of the fascia should be uniform with adjoining properties. Design and materials should be light weight to complement the building to which the awning is to be attached.</p> <p>vii) Development should provide an awning across its street frontage, setback 600mm from the kerb, between 3.5m and 4.5m above the footpath and with openings provided for street tree planting. Gaps between awnings should be closed.</p> <p>viii) Glass or translucent roofing must not be used as these materials provide no shade and facilitate heat transfer. Opaque materials such as ribbed sheet steel are encouraged.</p> <p>ix) Drop blinds protecting shopfronts and shoppers from low sun angles should be included at the outer edge of awnings.</p> <p>x) Advertising space on these could be used to diversify the street</p>		

DCP Clause	Controls	Proposal	Compliance
	appearance. The underside of drop blinds should be at least 3m above the footpath level. In cases where it is impractical or unreasonable to require continuous awnings other forms of providing shade and shelter may be considered.		
10.3	<p>Upper Level Facades</p> <p>i) For new development, façade alterations and infill buildings, verandahs and upper storey balcony design and materials should be compatible to the heritage items and contributing facades within the area.</p> <p>ii) Cantilevered balconies should not be used on new buildings.</p> <p>iii) Balconies should be sized and arranged so that strong horizontal lines do not dominate the façade of the development.</p> <p>iv) Recessed balconies which modulate the façade should be incorporated in the design of new development.</p> <p>v) Balconies should be designed to protect the visual amenity of occupants, neighbours and the street and should therefore have a solid appearance.</p>	Council's Heritage Planner raises no objection to the proposal.	Yes
10.4	<p>Materials and Colours</p> <p>i) Materials and finishes for new development should be compatible with adjoining and nearby development. Sympathetic use of building materials can reduce the impact of a</p>	Council's Heritage Planner considers the proposed amended materials to be generally satisfactory.	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>modern shopfront on the streetscape.</p> <p>ii) Acceptable materials include face brickwork (traditional reds, browns and manganese) and rendered masonry. The use of precast concrete is to be avoided. Acceptable roof materials include corrugated iron and Marseilles tiles.</p> <p>iii) Original face brickwork or stone should not be painted or rendered.</p> <p>iv) Colours should enhance the locality and be appropriate to the architectural style of the building.</p>		
10.5	<p>Outdoor Advertising</p> <p>i) Advertising should respect and demonstrate an understanding of the design of the building and should not adversely affect the heritage streetscape values.</p> <p>ii) If an advertising structure is proposed to be attached to a building, the drawings accompanying the application should provide elevations showing windows, awnings or other major architectural features in relation to the advertising structure.</p> <p>iii) The use of above awning signage is not suitable.</p> <p>iv) The installation of "drop blind" type signs suspended from awnings is encouraged.</p>	None proposed.	N/A
11	Car Parking and Access		

DCP Clause	Controls	Proposal	Compliance
	<p>i) To protect the streetscape on-site car parking is to be provided either at ground level or as basement car parking.</p> <p>ii) Above ground car parking must not be visible from Belmore Road or Avoca Street.</p> <p>iii) Carpark ventilation grilles must not be located on primary street frontages.</p> <p>iv) If the development has access to a rear lane, the loading and unloading facilities must be provided from the lane, in order to minimise the intrusion of vehicular access and servicing upon the pedestrian character of Randwick Junction.</p> <p>v) Rear servicing areas in mixed use development should be able to cater for both residential and commercial servicing requirements.</p>	No car parking will be provided on the site.	No

Conclusion

Due to the reasons as detailed in this report, the application to review the development consent is not supported and it is recommended that the original determination be confirmed.

Recommendation

A **THAT** Council's original decision to refuse Development Consent No. DA/331/2019, 23 Belmore Road, RANDWICK be confirmed.

ASSESSMENT PLANNER

Thomas Mithen

DATE: 20 January 2021

Having considered the report of the Assessment Officer and after having taken into account Council's Local Environmental Policies and Codes I determine that the application subject of this assessment report should be determined in accordance with the recommendation.

I have exercised my delegation of authority, in accordance with the instrument of delegation, to determine this application.



.....
William Jones
Coordinator – Major Assessments

DATE: 22 January 2021

Memorandum

TO: MANAGER, DEVELOPMENT ASSESSMENTS

FROM: DEVELOPMENT ENGINEER

DATE: 24 NOVEMBER 2020

FILE NO: DA/331/2019

DA NO: 331/2019 PREMISES: 23 BELMORE ROAD, RANDWICK
--

A Section 8.2 Review of the refused development application with changes made including reduced number of boarding rooms, reduced building height and floor area, provision of motorcycle parking, provision of rooftop communal open space and associated changes.

Original refused consent

Redevelopment of the site including retention of ground level restaurant and front 2 storeys of building, with three level boarding house above comprising 11 boarding rooms, communal room and balcony, 1 carspace, 16 bicycle spaces, garbage storage and associated works (Variation to height control)(Heritage Conservation Area) at the above site.

This report is based on the following plans and documentation:

- Amended Architectural Plans by Jackson Teece Architects, issue 1, dated 04/08/2020;
- Statement of Environmental Effects by Genevieve Slattery Urban Planning dated 11th June 2019;
- Detail & Level Survey by Project Surveyors Rev B dated 7/02/2019;
- Landscape Plan by PAA Design, dwg DA01, issue A, dated 26/03/19.

PARKING COMMENTS

Summary

If adopting the applicable SEPP Parking rate of 1 space per 2 rooms, the amended boarding house scheme will increase the parking shortfall on the site by approximately 3 spaces

In reality however the parking demand is not expected to change significantly from the existing situation given the low number of boarding house rooms, the sites location within Randwick town centre and the plethora of alternative forms of transport available. The site couldn't be more ideally situated to reduce dependence on a motor vehicle.

Insisting on the provision of additional parking in this instance would not be in the public interest given the additional risks to pedestrians on Belmore Road/Bell lane and within the site itself. The site is extremely constrained making the provision of any additional parking difficult to achieve while also maintaining satisfactory clearances and accessibility. This would be true for any redevelopment of the site.

In the absence of any other planning issues it is considered refusal of this application based purely on the variation to the SEPP parking rate would not be warranted in this instance. Council does have the discretion to vary the parking requirements under Section 29(4) of the SEPP Affordable Housing.

The provision of 2 motorbike spaces and 16 bicycle spaces fully complies with the compulsory standard under Clause 30(h) of the SEPP Affordable housing.

More detailed parking comments are provided below.

PARKING PROVISION - CURRENT SITUATION

Parking Requirements for the existing development have been assessed as per the following applicable parking rates specified in Part B7 of Randwick Council's Development Control Plan 2013.

- Restaurants - 1 space per 40m² for first 80m² then 1 space per 20m² thereafter
- Residential - 1.2 spaces per 2 bedroom unit

The site currently contains a 2 storey building which accommodates a restaurant with storage and 1 parking space at the rear in a garage with a residential development above on Level 1 containing a 2 bedroom unit.

The existing restaurant has a floor area of approximately 104m² including the storage area, kitchen and toilet at the rear. Adopting the DCP rate above would result in a parking generation of 3.2 spaces for the restaurant.

The residential dwelling above comprises of a 2 bedroom unit generating a demand of 1.2 spaces under the DCP. Hence;

EXISTING PARKING DEMAND UNDER DCP = 3.2 (Restaurant) + 1.2 (unit)
= 4.4 spaces

EXISTING PARKING PROVIDED = 1 space within rear garage

EXISTING PARKING SHORTFALL = 3.4 SPACES

PARKING PROVISION - PROPOSED DEVELOPMENT

The proposed development retains the existing restaurant (although with a smaller overall area) and replaces the dwelling above with an 9 room boarding house over 3 levels.

Under Council's DCP the parking demand for the restaurant would decrease slightly due to the decrease in floor area which would now be approximately 80m² thereby decreasing the parking demand to about 2 spaces.

Parking Requirements for boarding houses are initially guided by the parking rates specified in the SEPP Affordable Housing which specifies a 'do not refuse' standard parking rate for boarding houses (not being made by a social housing provider) of **0.5 spaces per room**.

As the amended boarding house now comprises of 9 rooms this suggests a required parking provision of 4.5 spaces (but see discussion below)

Hence

TOTAL PARKING REQUIRED = 2 (restaurant) + 4.5 (Boarding house 9 rooms)
= 6.5 spaces

PARKING PROVIDED = 0 space (accessed from Bell Lane) for the tenancy.

PROPOSED PARKING SHORTFALL = 6.5 spaces

If adopting DCP & SEPP Parking rates, the proposed development will result in the existing parking shortfall on the property increasing from 3.4 to 6.5 spaces being an increase of 3.1 spaces. This also takes into account the loss of the existing space within the garage to make way for the motorbike parking. Note that this is an identical shortfall to the original submission which did propose a carspace but also had two more boarding rooms.

Motorbike & Bicycle Parking

The Affordable Housing SEPP states in regulation 30(h) that consent authorities must not consent to development unless at least one parking space is provided for a bicycle and one for a motorcycle for every 5 boarding rooms.

As the number of boarding rooms is 9 this will require the provision of 2 bicycle and 2 motorbike spaces.

The submitted plans demonstrate compliance with the motorbike parking and a surplus of bicycle parking with 16 spaces provided

DISCUSSION ON PARKING SHORTFALL

As discussed in the original submission a reduction in the parking provision is supported in this instance given the sites location in Randwick Town centre and readily available access to alternative forms of transport including buses, light rail and carshare pods. Council does have the discretion to vary the parking requirements under Section 29(4) of the SEPP Affordable Housing.

Providing a fully parking compliant development based on the SEPP parking rate would not be achievable on this site due to geometric constraints. It would also not be desirable for pedestrian safety due to additional traffic bring created in Bell Lane which then exits onto Belmore Road where there is a very high level of pedestrian activity.

Furthermore, it is considered the parking demand is not expected to change significantly from the existing situation given the low number of boarding house rooms, the sites location within Randwick town centre and the plethora of alternative forms of transport available. The site is very well situated to reduce dependence on a motor vehicle and is therefore likely to attract residents who don't own a motor vehicle.

It is therefore the view of Development Engineering that insisting on the provision of additional parking in this instance would not be in the public interest and achieve little given the additional risks to pedestrians on Belmore Road/Bell Lane and within the site itself. The site is also extremely constrained making the provision of any additional parking difficult to achieve for any form of redevelopment

WASTE MANAGEMENT COMMENTS

Comments on the number of Waste Bins

Council's Waste Management Guidelines specifies a waste generation rate for boardinh houses of 9L/occupant/day for garbage plus 3L/occupant/day for recycling

The section 8.2 revision proposes 9 rooms comprising of 5 single rooms and 4 double rooms thereby potentially having a total of 13 occupants.

Normal Waste generated (weekly collection) = $9 \times 13 \times 7 = 819\text{L}$

No of standard 240L bins required = $819/240 = 3.4 = \text{say } 4 \text{ bins}$

Recycled Waste generated (fortnightly collection) = $3 \times 13 \times 14 = 546\text{L}$

No of standard 240L bins required = $546/240 = 2.3 = \text{say } 2\text{-}3 \text{ bins}$

Hence a total of 6-7 x 240L bins will be required. The waste bin area for the boarding house only indicates 4 x 240L bins and so is slightly undersized. As the non-compliance is minor it is considered this can be addressed by condition.

Tree & Landscape Comments

There is no vegetation within the subject site at all, with conditions allowing the selective clearance pruning of the western aspect of the mature Tallowood, which is located on higher ground to the east, on the other side of Bell Lane, on another private property, only where it overhangs the roadway and is required so as to facilitate truck and machinery access, deliveries and similar, and should only be a minimal amount (if at all), given the height that its crown is already held above the road surface.

The previously submitted Landscape Plan detailed species selection for a podium planter along the eastern edge of Level 1, having a soil depth between 600-780mm, with these current plans still showing this area, with planting now also introduced to the outdoor communal terrace on Level 3, with relevant conditions requiring implementation of this scheme provided in the report.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a 'Construction Certificate' is issued by either an Accredited Certifier or Randwick City Council. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

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

Security Deposit

1. The following damage / civil works security deposit requirement must be complied with, as security for making good any damage caused to the roadway, footway, verge or any public place; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A(6) of the *Environmental Planning and Assessment Act 1979*:

- \$5000.00 - Damage / Civil Works Security Deposit

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

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

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

Sydney Water

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

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

The **Tap in™** service provides 24/7 access to a range of services, including:

- Building plan approvals
- Connection and disconnection approvals
- Diagrams
- Trade waste approvals
- Pressure information
- Water meter installations
- Pressure boosting and pump approvals
- Change to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's **Tap in™** online service is available at:
<https://www.sydneywater.com.au/tapin>

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

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

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

Traffic conditions

3. The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of AS2890.1:2004. The Construction Certificate plans must demonstrate compliance with these requirements.

Design Alignment levels

4. The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, shall be:
 - **60mm above edge of bitumen/lip of gutter at all points opposite, along the full Bell Lane frontage.**

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

Any request to vary the design alignment level/s must be forwarded to and approved in writing by Council's Development Engineers and may require a formal amendment to the development consent via a Section 4.55 application.

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

5. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of **\$328** calculated at \$55.00 per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.
6. The gradient of the internal carspace must be designed and constructed in accordance with AS 2890.1 (2004) – Off Street Car Parking and the levels of the carspace must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate.
The height of the building must not be increased to satisfy the required driveway gradients.

Stormwater Drainage & Flood Management

7. Detailed drainage plans with levels reduced to Australian Height Datum (AHD), shall be prepared by a suitably qualified Hydraulic Engineer and be submitted to and approved by the certifying authority. A copy of the plans shall be forwarded to Council, if Council is not the certifying authority.

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

- a. Stormwater runoff from the (redeveloped portion) site shall be discharged to the kerb and gutter along the site frontage by gravity (without the use of a charged system).

Waste Management

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

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

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

- The procedures and arrangements for on-going waste management including collection, storage and removal of waste and recycling of materials.

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

9. The garbage room for the boarding house shall be sized to contain a total of 6 x 240 litre bins (comprising 3 garbage bins & 3 recycle bins) and with adequate provisions for access to all bins. Details showing compliance are to be included in the construction certificate.
10. The commercial garbage area must be physically separated from the boarding house bin storage area.
11. 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.

Public Utilities

12. A *Public Utility Impact Assessment* must be carried out to identify all public utility services located on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the building works.

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

Landscape Plan

13. The Landscape Plan by PAA Design, dwg DA01, issue A, dated 26/03/19, must be amended to now include the following additional details:
 - a) Confirmation that a minimum **soil depth** of 600mm will be provided throughout all planting over podium, so as to sustain the landscaping into the future;
 - b) The Indicative Plant Schedule shown for the Level 1 planter shall remain in force and be provided on-site as part of the works, with selection for the planters around the Outdoor Communal Terrace on Level 3 to now also be provided, using only those hardy species which can tolerate the extremes of heat and persistent wind, and which are not reliant on high quantities of moisture for survival.
14. This revised Landscape Plan must be accompanied by a written statement from a qualified professional in the Landscape/Horticultural industry, which confirms compliance with the requirements listed above, with both this statement and Plan to then be submitted to, and be approved by, the Principal Certifier.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979, Environmental Planning & Assessment*

Construction Traffic Management

15. A detailed Construction Site Traffic Management Plan must be submitted to and approved by Council, prior to commencement of any site work [or]

The Construction Site Traffic Management Plan must be prepared by a suitably qualified person and must include the following details, to the satisfaction of Council:

- A description of the demolition, excavation and construction works
- A site plan/s showing the site, roads, footpaths, site access points and vehicular movements
- Any proposed road and/or footpath closures
- Proposed site access locations for personnel, deliveries and materials
- Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site)
- Provision for loading and unloading of goods and materials
- Impacts of the work and vehicular movements on the road network, traffic and pedestrians
- Proposed hours of construction related activities and vehicular movements to and from the site
- Current/proposed approvals from other Agencies and Authorities (including NSW Roads & Traffic Authority, Police and State Transit Authority)
- Any activities proposed to be located or impact upon Council's road, footways or any public place
- Measures to maintain public safety and convenience

The approved Construction Site Traffic Management Plan must be complied with at all times, and any proposed amendments to the approved Construction Site Traffic Management Plan must be submitted to and be approved by Council in writing, prior to the implementation of any variations to the Plan.

16. Any necessary approvals must be obtained from NSW Police, Roads & Maritime Services, Transport, and relevant Service Authorities, prior to commencing work upon or within the road, footway or nature strip.

Pruning

17. Permission is granted for the minimal and selective pruning of only those lower growing, lower order branches from the western aspect of the Tallowood, which is located on higher ground to the east, on the other side of Bell Lane, on another private property, only where it overhangs the roadway and is needed so as to avoid damage to the tree, and/or, facilitate truck and machinery access, deliveries and similar, and should only result in a minimal amount (if at all), given the height that its crown is already held above the road surface.
18. This approval does not imply any right of entry onto a neighbouring property nor does it allow pruning beyond a common boundary; however, where such measures are desirable in the best interests of correct pruning procedures, and

ultimately, the ongoing health of the tree, the applicant must negotiate with the neighbour/tree owner for access to perform this work.

19. All pruning can only be undertaken by a Practising Arborist who holds a minimum of AQF Level III in Arboriculture, and to the requirements of Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and NSW Work Cover Code of Practice for the Amenity Tree Industry (1998).

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

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

Road/Asset Opening Permit

20. Any openings within or upon the road, footpath, nature strip or in any public place (i.e. for proposed drainage works or installation of services), must be carried out in accordance with the following requirements, to the satisfaction of Council:
 - A *Road / Asset Opening Permit* must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the *Road / Asset Opening Permit* must be complied with.
 - The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a *final occupation certificate* for the development.
 - Relevant *Road / Asset Opening Permit* fees, repair fees, inspection fees and security deposits, must be paid to Council prior to commencing any works within or upon the road, footpath, nature strip or other public place.

For further information, please contact Council's Road / Asset Opening Officer on 9093 6691 or 1300 722 542.

Traffic Management

21. Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
22. All work, including the provision of barricades, fencing, lighting, signage and traffic control, must be carried out in accordance with the NSW Roads and Traffic Authority publication - 'Traffic Control at Work Sites' and Australian Standard AS 1742.3 – Traffic Control Devices for Works on Roads, at all times.
23. All conditions and requirements of the NSW Police, Roads & Maritime Services, Transport and Council must be complied with at all times.

Street awning

24. A report is required to be obtained from a professional structural engineer, which assesses and reports on the structural adequacy of the awning attached to the subject premises, located over the footway.

The report is required to:

- a) Confirm that the subject awning is currently structurally adequate and fit-for-purpose, or;
- b) Detail the necessary works required to be carried out to ensure that the awning is structurally adequate and fit-for-purpose.

In the case of a report provided in accordance with a) above, the report must be provided to Council and the Principal Certifying Authority prior to the issuing of an Occupation Certificate or commencement of the use (whichever the sooner).

In the case of a report provided in accordance with b) above, the necessary works identified in the report must be carried out and a further report or certificate must be provided to the Council and the Principal Certifying Authority which confirms that the necessary work has been carried out and the subject awning is structurally adequate and fit-for-purpose, prior to the issuing of an Occupation Certificate or commencement of the use of the land (whichever the sooner) or other timeframe approved by Council in writing.

Notes:

- If works are required to make the awning structurally adequate, any necessary approvals under the Local Government Act (1993), Roads Act (1993) and/or the Environmental Planning and Assessment Act (1979) must be obtained prior to the commencement of works to the awning.
- The structural engineering report referenced in this condition is NOT required if evidence is submitted to demonstrate that the subject awning was approved and constructed less than 10 years ago.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the 'Principal Certifying Authority' issuing an 'Occupation Certificate'.

Note: For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979, Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Council's Infrastructure, Vehicular Crossings & Road Openings

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

- a) Construct concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site on Bell Lane.

- b) Re-construct kerb and gutter for the full site frontage except opposite the vehicular entrance in Bell Lane including any road reknit as required.
26. Prior to issuing a final occupation certificate or occupation of the development (whichever is sooner), the owner/developer must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
27. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
- a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
 - b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
 - c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

Sydney Water Requirements

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

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

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

Waste Management

29. Prior to the occupation of the development, the owner or applicant is required to contact Council's City Services department, to make the necessary arrangements for the provision of waste services for the premises.
30. The waste storage areas shall be clearly signposted.

Landscaping

31. Prior to any Occupation Certificate, certification from a qualified professional in the landscape/horticultural industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the revised Landscape Plan by PAA Design, dwg DA01, issue A, dated 26/03/19, as well as any relevant conditions of consent.
32. Suitable strategies shall be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

Residential Parking Permits

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

ADVISORY NOTES

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

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

- Further information and details on Council's requirements for trees on development sites can be obtained from the recently adopted Tree Technical Manual, which can be downloaded from Council's website at the following link, <http://www.randwick.nsw.gov.au> - Looking after our environment – Trees – Tree Management Technical Manual; which aims to achieve consistency of approach and compliance with appropriate standards and best practice guidelines.

.....
DEVELOPMENT ENGINEER/LANDSCAPE DEVELOPMENT OFFICER
JASON RIDER/D MEREDITH

DRAFT

Memorandum

TO: Sohail Faridy

FROM: Laura Rowe

DATE: 17 September 2020

FILE NO: DA/331/2019

DA NO: DA/331/2019

PREMISES: 23 Belmore Road, RANDWICK NSW 2031

Proposed Development:

Council received a re-submitted development application for the redevelopment of 23 Belmore Road, Randwick NSW 2031. It included the retention of the ground level restaurant and front 2 storey's of building with 3 level boarding house above comprising of 9 boarding rooms, communal lounge & kitchen, 5 balconies, roof top communal terrace, 2 motorcycle parking spaces, space for 16 bicycles, garage storage and associated works.

Comments:

Food Safety:

A statement of environmental effects letter on the 04 Aug 2020 addressing previous reasons for Council's determination of the development application has stated that a separate DA for the restaurant will be submitted at a later stage for assessment therefore DA/331/2019 will be conditioned only as a boarding house.

Noise concerns:

An amended noise assessment prepared by Acoustic Logic dated 28 October 2019 stated that detailed plant selection and location has not been undertaken at this stage. Satisfactory levels will be achievable through appropriate plan selection, location and if necessary, standard acoustic treatments such as duct lining, acoustic silencers and enclosures.

In addition, the acoustic report states rooms at the western external façade facing Belmore Road, will not be able to achieve required internal noise levels with windows or doors open. Construction recommendations have been provided in the report to achieve required indoor noise levels.

The report recommends overall acoustic treatments to ensure that the external noise emissions comply with the criteria. It states that provided that the recommendations especially the construction ones are adopted; internal noise levels for the boarding house development will comply with the acoustic requirements.

The potential for noise nuisance has been considered and appropriate conditions have been included in this referral.

Plan of management:

An amended Plan of Management was submitted on behalf of the applicant by Geneieve Slattery Urban Planning on the 15 November 2019.

Environmental Amenity

Standard conditions in relation to pollution control have been included in the following referral to ensure compliance with relevant legislation and guidelines.

Land Contamination

The Statement of Environmental Effects stated that minor excavation associated with footings will be undertaken at the site.

A review of Council's computer database system Pathway, HPRM System and discussion held with Council's Technical, Research and Property Officer indicates that the site has only been used for retail and residential purposes and is not likely to be subject to contamination.

Recommendation:

Should the application be approved, it is recommended that the following conditions be included:

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

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

1. All recommendations detailed in section 5.3 of the Acoustic Report prepared by Acoustic Logic dated 28 October 2019 are to be included in the construction certificate plans. The acoustic consultant shall confirm in writing to the certifying authority that all acoustic requirements have been complied with prior to a construction certificate being issued for the development.
2. 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 satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, Environmental Protection Authority Noise Control Manual & Industrial Noise Policy, relevant conditions of consent (including any relevant approved acoustic report and recommendations). The assessment and report must include all relevant fixed and operational noise sources.

Certification and Building Inspection Requirements

3. Prior to the commencement of any building or fit-out works, the following requirements must be complied with:
 - a) a *Construction Certificate* must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

- a) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
- b) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
- c) at least two days notice must be given to the Council, in writing, prior to commencing any works.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

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

Demolition Work Plan

4. A Demolition Work Plan must be prepared for the development in accordance with *Work Health and Safety Regulation 2017*, SafeWork NSW Code of Practice for the safe removal of asbestos and 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. 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 SafeWork licences and permits.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

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

Demolition Work Requirements

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

- *Work Health and Safety Act 2011*;
- *Work Health and Safety Regulation 2017*;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- *Protection of the Environment Operations Act 1997*;
- *Protection of the Environment Operations (Waste) Regulation 2014*; and
- Randwick City Council Asbestos Policy.

A copy of Council's Asbestos Policy is available on Council's web site or a copy can be obtained from Council's Customer Service Centre.

Removal of Asbestos Materials

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

- Work Health & Safety legislation and SafeWork NSW requirements
- Randwick City Council's Asbestos Policy
- A SafeWork licensed demolition or asbestos removal contractor must undertake removal of more than 10m² of bonded asbestos (or as otherwise specified by SafeWork or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifying Authority and Council.
- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'Danger Asbestos Removal In Progress' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2014*. Details of the disposal of materials containing asbestos (including receipts) must be provided to the Principal Certifying Authority and Council.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person), must be provided to Council and the Principal certifying

authority as soon as practicable after completion of the asbestos related works which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

A copy of Council's Asbestos Policy is available on Council's web site or a copy can be obtained from Council's Customer Service Centre.

7. Any hazardous and/or intractable wastes arising from any demolition, excavation, building and any remediation works are to be managed and disposed of in accordance with the requirements of SafeWork NSW and the Environment Protection Authority (EPA), including the provisions of:
 - Work Health and Safety Act 2011
 - Protection of the Environment Operations Act 1997 (NSW)
 - Protection of the Environment Operations (Waste) Regulation 2014
 - NSW EPA Waste Classification Guidelines 2008
 - Randwick City Council's Asbestos Policy
8. Any new information which is identified during demolition or construction works that has the potential to alter previous conclusions about site contamination or the remediation strategy shall be notified to the Principal Certifying Authority (PCA) and Council immediately in writing.

The written concurrence of the Principal Certifying Authority (PCA) and Council must be obtained prior to implementing any changes to the remediation action plan or strategies.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the 'Principal Certifying Authority' issuing an 'Occupation Certificate'.

Note: For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

9. Places of Shared Accommodation must comply with the *Local Government (General) Regulation 2005* and the *Boarding Houses Act 2012* and the premises must also be registered with NSW Fair Trading and Council (as applicable) **prior to issue of an occupation certificate.**
10. A report, prepared by a suitably qualified and experienced consultant in acoustics, shall be submitted to the Council **prior to an occupation certificate** being issued for the development, which demonstrates and certifies that noise and vibration from the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW EPA Noise Control Manual & Industrial Noise Policy, Council's conditions of consent (including any relevant approved acoustic report and recommendations), to the satisfaction of Council. The assessment and report must include all relevant fixed and operational noise sources.

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

Environmental Amenity

11. 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 & Climate Change Noise Control Guidelines.

12. 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.
13. All the noise control methods listed in 'House Rules' of the Plan of Management prepared by Genevieve Slattery Urban Planning Pty Ltd, dated 15 November 2019 for the development of the boarding house at 23 Belmore Road, Randwick, shall be implemented at all times together with the revised Plan of Management as requested as part of this consent.
14. No music is to be played in outdoor communal area at any time.
15. The use of the outdoor courtyard area is restricted to:
Monday- Sunday 7:00am – 10:00pm
16. The use and operation of the premises shall not give rise to an environmental health or public nuisance.
17. The owner or owner's agent shall ensure that a notice is placed near the entrance to the property in a visible position to the public advising of the owner's contact name and an after-hours contact number.
18. Each occupant shall be furnished with a set of house rules (i.e. the Plan of Management) and that no variation shall be permitted without the further approval of Council.
19. The owner or owner's agent shall maintain a record of all residents with details of their names, length of stay & number of persons in each room. This information shall be stored for a minimum of 12 months on site and made available to Council Officers upon request.

20. All residents in the boarding house accommodation are to sign a lease or licence agreeing to comply with the Plan of Management (PoM) for the boarding house, with the length of the lease to be determined by the management.
21. There are to be no emissions or discharges from the premises which give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.
22. The individual rooms, common areas, shared facilities and yard are to be maintained in a clean and tidy state and individual's rubbish is to be placed in the appropriate receptacles.
23. The onsite manager and/or security guard must establish and maintain a process and documented system for the recording and resolution of complaints made to the premises and the owner. All complaints are to be attended to in a courteous and efficient manner and referred promptly to the owner and/or onsite manager. The appropriate remedial action, where possible, is to be implemented immediately and owner and/or onsite manager is to contact the complainant within 24 hours to confirm details of action taken.

Waste Management

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

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

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

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

GENERAL ADVISORY NOTES

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

Last updated: July 2012

Memorandum

TO: MANAGER, DEVELOPMENT ASSESSMENTS

FROM: HERITAGE PLANNER

DATE: 2 September 2020

FILE NO: DA/331/2019

DA NO: DA/331/2019

PREMISES: 23 Belmore Road, RANDWICK NSW 2031

The Site

The site is within the Randwick Junction heritage conservation area and is occupied by a two storey Edwardian style building comprising ground floor retail and upper floor commercial/residential. The building features a curved parapet with rendered mouldings and string courses. No.25 Belmore Road immediately to the south is similar in style. The Randwick Junction section of Randwick DCP 2013 identifies nos.23, 25, 29 and 31 – 33 Belmore Road identified as Contributory Facades. In terms of aesthetic significance, the Statement of Significance for the heritage conservation area notes that buildings are generally two to three storeys and are generally built to the street alignment for the full width of the allotment. To the south of the site at nos.35 – 43 Belmore Road is a three storey Art Deco building, listed as heritage item under Randwick LEP 2012. To the east of the site are at nos.191 and 193 Alison Road, are "Seabird" and "Glanmire" also listed as heritage items. The NSW Heritage Database listing for nos.35 – 43 Belmore Road notes the aesthetic significance of the building, which demonstrates the key characteristic elements of the Art Deco style, with impressive and distinct brickwork detailing created by combination of geometric pattern, and polychromatic and textured face brick.

Background

PL/5/2018 proposed to retain the front section of the existing building, to demolish the rear section and to provide a new rear addition, a new second level addition to the existing building, and a new four storey building is proposed at the rear of the site. The proposal included ground level retail and upper level boarding house accommodation. Heritage concerns were raised in relation to the impact of the rear addition, the second level addition and the new rear building.

DA/331/2019 for substantial demolition and alterations and additions to the existing building to provide a four storey building behind the existing two storey façade was refused. The application included ground floor level restaurant and upper floor levels boarding house rooms on either side of a partial courtyard/lightwell. Heritage concerns were raised that the proposed addition would dominate and compete with the existing and adjacent contributory buildings, and that it would be a prominent element in the skyline of the Randwick Junction heritage conservation area. It was suggested that the removal of the top level of the front section of the proposed addition would considerably simplify the building envelope and reduce the bulk and visibility of the proposal.

A Section 8.2 Request for Review of Determination has now been received, in conjunction with amended drawings.

Proposal

The current application similarly proposes substantial demolition and alterations and additions to the existing building behind the existing two storey façade. As compared to the earlier plans, the current plans have deleted the top level of the front part of the development immediately behind the existing façade, and instead providing a rooftop

terrace, so that this part of the building comprises three, rather than four levels. The rear part of the development remains four levels. At ground floor level, it is proposed to provide a restaurant/retail space, service areas and rear motor bike parking accessed from Bell Lane. Upper floor levels comprise communal areas and single and double boarding house rooms on either side of a partial courtyard/lightwell.

Submission

The earlier application was accompanied by a Statement of Heritage Impact submission prepared by NBRS + Partners. In terms of exterior detail, the SHI notes the building was first constructed c.1892, altered and extended in the late 1930s, and altered several times since then, with the front façade above the awning close to being intact apart from the insertion of the window in the original opening and rendering of brickwork. In terms of interior detail, the SHI advises that the ground floor appears to retain no original fittings, fixtures or finishes, but the first floor has retained some of its original layout, especially the front room which retains its original walls, cornice and pressed metal ceiling, and the former front balcony which retains its fine tessellated tile floor. The SHI notes that the stairwell and an adjacent storeroom contain some original elements, but the rear section of the building at ground and first floor level has very little heritage significance. In relation to Views, the SHI advises that the primary views of the subject site are those of the front facade on Belmore Road and from the east end of Silver street, with no distant views or vistas available from, or of, the subject site because it is not taller than its neighbours. In terms of significance, the SHI advises that:

The early Federation shop with a dwelling above, has a façade above awning level that contributes some historical and aesthetic heritage value to the Randwick Junction Conservation Area. This streetscape contribution would be enhanced by restoring the balcony. The front room at first floor level is partly intact. The other built elements of the site lack a period origin or sufficient integrity to contribute to the conservation area. The place does not meet the threshold for local heritage listing.

The SHI advises that the proposal includes demolition of the 1930s rear extension and the highly altered rear section of the shop, leaving the front room on the first floor and its façade and party walls; and that the front façade would be conserved by patching chipped sections of the decorative render and re-opening the balcony arch.

In relation to positive and negative impacts of the proposal, the SHI advises that the restoration of the balcony would have a positive impact on the conservation area, that the upper-most portions of the development would be visible from the public domain but the original front façade would be the dominant element of the building in all views of the site from Belmore Road.

In relation to Demolition, the SHI considers that the fabric which is to be removed at ground and first floor level and to the rear, makes little contribution to the conservation area. The SHI concluded that the design of the minor alterations has been designed to contrast quietly with the retained sections of the building, that all existing views to and from the heritage items in the vicinity will be unchanged, and that the application will have an acceptable impact on the Randwick Junction Conservation Area.

The current application has been accompanied by a Statement of Environmental Effects addressing previous Council comments and reasons for determination. In relation to the amended design, the SEE notes:

Building materials have been amended / simplified to the Belmore Rd heritage portion. The simpler materials and building form allows more emphasis to the heritage elements along Belmore Road. Bell Lane remains unchanged.

As noted, further amendments have been made to make the building form smaller, simpler and more orthogonal on the important Belmore Rd heritage character, which will further reduce visibility to the street scape. Heritage elements will be enhanced rather than compromised with this development.

Controls

Clause 5.10(1) of Randwick Local Environmental Plan 2012 includes an Objective of conserving the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views.

Clause 5.10(4) of Randwick Local Environmental Plan 2012 requires Council to consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area.

In relation to contributory buildings, the Randwick Junction section of Randwick Development Control Plan 2013 advises that contributory buildings should be retained, original fabric conserved, new work should be sensitive, and neighbouring development should be sympathetic to their character. In relation to Building Design, the DCP includes an Objective that new development respects the detailing, materials and finishes of surrounding heritage and contributory buildings.

In relation to Site Planning, clause 8 of the DCP includes an Objective of achieving a coherent site layout that produces a pleasant attractive and sustainable environment for living, shopping and working. In relation to Building Envelope, clause 69 of the DCP includes an Objective of ensuring that new development reinforces existing urban form, the streetscape and visual character. In relation to Building Design, clause 10 of the DCP includes an Objective of encouraging reinstatement of original features and removing inappropriate alterations and additions.

Comments

Demolition

The proposal to retain the front section of the building at ground and first floor level allows for the retention of the front room at first floor level including walls, cornice and pressed metal ceiling, and provides a separation between new and existing building fabric which relates to the layout of the original building. The retention of the front section of the building should provide a reasonable level of structural integrity to the façade of the building. A consent condition should be included that original features of the front room at first floor level be retained in conjunction with the development.

All fabric in the rear section of the building is to be demolished, which generally appears to include later alterations and additions, and secondary building fabric which has been considerably altered.

Conservation works

The opening up of the previously enclosed upper level balcony will reinstate the traditional interface between the building and street and provide depth to the front façade. The HIS advises that the front façade will be conserved by patching chipped sections of the decorative render, however elevations note only "existing façade to be reinstated". A consent condition should be included requiring the preparation of a schedule of conservation works providing further detail on required internal and external conservation works.

Streetscape visibility of the addition

The site is around 5.5m wide and highlights the difficulties in achieving a successful design with regard to external form and internal amenity. Lots along both sides of Belmore Road have an awkward configuration where the front boundary and most front facades are at a 45 degree angle to the side boundaries. The subject site has sharply splayed front and rear boundaries, so that the existing first floor balcony has a depth varying between 0.2m and 2.5m.

In previous plans, the second level of the addition was around 1.5m above the existing parapet, while the third level of the addition was around 3m above the existing parapet.

The current plans have top level of the addition around 1.5m above the existing parapet, considerably lowering the scale of the front part of the development. Photomontages which have been submitted indicate that from the south, the proposed addition will be screened by no.25 Belmore Road and will have no visibility along Belmore Road from this direction. Photomontages indicate however that from the north, the proposed addition will remain visible across Bell Lane and above no.21 Belmore Road.

The previous plans presented a complex building envelope where the front part of the development had a stepping form highly visible in the streetscape. The current plans have considerably simplified the proposed building envelope, so that the form and materials of the new top level appear generally as recessive rooftop elements, which will not be prominent in the skyline of the heritage conservation area. The current plans achieve a more sensitive relationship between existing building fabric which is to be retained, and the proposed addition, so that the proposed addition will not dominate nor compete with the existing and adjacent contributory buildings.

The Material Selection which has been submitted is generally satisfactory, but a consent condition should be included that a more detailed Schedule of Materials and Finishes be submitted providing detail of the profile of proposed metal wall and roof cladding, and the actual colours proposed.

Comment should be sought on the consistency of the proposal with the building envelopes contained in the planning strategy for Randwick Junction town centre which is now being finalised.

Recommendation

The following conditions should be included in any consent:

- The layout of the first floor of the building is to retain the layout and detailing of the front room, including walls, cornice and pressed metal ceiling.
- A Schedule of Conservation Works for the retained interior and exterior elements of the existing building shall be prepared in accordance with the principles embodied in the Australia ICOMOS *Burra Charter* and the methodology outlined in J.S. Kerr's *The Conservation Plan*. This Plan shall be prepared by an architect suitably qualified and experienced in heritage conservation, and shall be to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.
- The conservation policies and maintenance program outlined in the Schedule of Conservation Works are to be implemented in conjunction with the proposed development. An architect suitably qualified and experienced in heritage conservation shall be engaged to oversee the implementation to ensure the use of technically sound and appropriate techniques.
- The colours, materials and finishes of the external surfaces to the building are to be compatible with the existing building and surrounding buildings in the heritage conservation area and consistent with the architectural style of the building and consistent with the Material Selection prepared by Jackson Teece, dated 06/02/16, and received by Council on 02/09/2020. A detailed Schedule of Materials and Finishes providing colours, materials and textures (i.e- a schedule and brochure/s or sample board) is to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development. The submission is to include detail of the profile of proposed metal wall and roof cladding, and the actual colours proposed.

Report Author:

.....
Lorraine Simpson
Heritage Planner

Our Ref: DA/331/2019

DEVELOPMENT APPLICATION NOTICE OF DETERMINATION

*Issued under the Environmental Planning and Assessment Act 1979
Sections 4.16, 4.17 & 4.18 (1)(a)*

Development Application No: DA/331/2019

Mr A Lee
61 Jennings St
MATRAVILLE NSW 2036

Property Address: 23 Belmore Road, RANDWICK NSW 2031

Description of Work: Redevelopment of site including retention of ground level restaurant and front 2 storeys of building, with three level boarding house above comprising 11 boarding rooms, communal room and balcony, 1 carspace, 16 bicycle spaces, garbage storage and associated works (Variation to height control)(Heritage Conservation Area).

Determination: **Refused (RLPP)**

Determination Date: **11 June 2020**

Reasons for Refusal

1. A written request to vary Clause 4.4 floor space ratio pursuant to the RLEP was not submitted and therefore consent cannot be granted.
2. The variation to Clause 4.3 height of buildings pursuant to the RLEP is not supported given the applicant's written request has not adequately demonstrated those matters that are required to be demonstrated in accordance with Clause 4.6 (3) and the variation is not within the public interest in accordance with Clause 4.6 (4).
3. The variation to Clause 30 (1) (h) pursuant to the ARH SEPP is not supported because the variation is not within the public interest in accordance with Clause 4.6 (4) pursuant to the RLEP.
4. The development is not in accordance with Clause 30A character of the local area pursuant to the ARH SEPP.

5. The development does not comply with the ARH SEPP and RDCP in relation to minimum area of communal open space, solar access to communal living room and orientation of boarding rooms, resulting in poor residential amenity.
6. The development is not in accordance with Clause 5.10 heritage conservation pursuant to the RLEP given it will adversely impact the heritage qualities of the contributory buildings and the Randwick Junction Heritage Conservation Area

Yours faithfully

Frank Ko
Manager Development Assessment

Rights of Appeal and Review of Determination:

- If you are dissatisfied with this decision, Section 8.7 of the Environmental Planning and Assessment Act 1979 (Act) gives you the right to appeal to the Land and Environment Court. In accordance with section 8.10 of the Act, your appeal must be made within 6 months after the date on which you receive this notice.
- Division 8.2 of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to Review the determination. The request must be made in writing (or on the review application form) and determined within six (6) months after the 11 June 2020, as specified in this notice of determination. Appropriate fees must be paid when the request is made.

<p>English</p> <p>If you need help to understand this letter, please come to Council's Customer Service Centre and ask for assistance in your language or you can contact the Telephone Interpreter Service (TIS) on 131 450 and ask them to contact Council on 1300 722 542.</p>	<p>Greek</p> <p>Αν χρειάζεστε βοήθεια για να καταλάβετε αυτή την επιστολή, παρακαλείστε να έρθετε στο Κέντρο Εξυπηρέτησης Πελατών της Δημαρχίας (Council Customer Service Centre) και να ζητήσετε βοήθεια στη γλώσσα σας ή τηλεφωνήστε στην Τηλεφωνική Υπηρεσία Διερμηνέων (Telephone Interpreter Service — TIS) τηλ. 131 450 και να ζητήσετε να επικοινωνήσουν με τη Δημαρχία τηλ. 1300 722 542.</p>	<p>Italian</p> <p>Se avete bisogno di aiuto per capire il contenuto di questa lettera, recatevi presso il Customer Service Centre del Municipio dove potrete chiedere di essere assistiti nella vostra lingua; oppure mettetevi in contatto con il Servizio Telefonico Interpreti (TIS) al 131 450 e chiedete loro di mettersi in contatto col Municipio al 1300 722 542.</p>
<p>Croatian</p> <p>Ako vam je potrebna pomoć da biste razumjeli ovo pismo, molimo dođite u Općinski služni centar za klijente (Council's Customer Service Centre) i zatražite pomoć na svom jeziku, ili možete nazvati Telefonsku službu tumača (TIS) na 131 450 i zamoliti njih da nazovu Općinu na 1300 722 542.</p>	<p>Spanish</p> <p>A la persona que necesite ayuda para entender esta carta se le ruega venir al Centro de Servicios para Clientes [Customer Service Centre] de la Municipalidad y pedir asistencia en su propio idioma, o bien ponerse en contacto con el Servicio Telefónico de Intérpretes [“TIS”], número 131 450, para pedir que le comuniquen con la Municipalidad, cuyo teléfono es 1300 722 542.</p>	<p>Vietnamese</p> <p>Nếu quý vị không hiểu lá thư này và cần sự giúp đỡ, mời quý vị đến Trung Tâm Dịch Vụ Hướng Dẫn Khách Hàng của Hội Đồng Thành Phố (Council's Customer Service Centre) để có người nói ngôn ngữ của quý vị giúp hay quý vị có thể liên lạc Dịch Vụ Thông Dịch qua Điện Thoại (TIS) ở số 131 450 và yêu cầu họ liên lạc với Hội Đồng Thành Phố (Council) ở số 1300 722 542.</p>
<p>Polish</p> <p>Jeśli potrzebujesz pomocy w zrozumieniu treści tego pisma, przyjdź do punktu obsługi klientów (Customer Service Centre) przy Radzie Miejskiej i poproś o pomoc w języku polskim, albo zadzwoń do Telefonicznego Biura Tłumaczy (Telephone Interpreter Service — TIS) pod numer 131 450 i poproś o skontaktowanie się z Radą Miejską (Council) pod numerem 1300 722 542.</p>	<p>Indonesian</p> <p>Jika Anda memerlukan bantuan untuk memahami surat ini, silakan datang ke Pusat Pelayanan Pelanggan (Customer Service Centre) Pemerintah Kotamadya (Council) dan mintalah untuk bantuan dalam bahasa Anda, atau Anda dapat menghubungi Jasa Juru Bahasa Telepon (Telephone Interpreter Service - TIS) pada nomor 131 450 dan meminta supaya mereka menghubungi Pemerintah Kotamadya pada nomor 1300 722 542.</p>	<p>Turkish</p> <p>Bu mektubu anlamak için yardıma ihtiyacınız varsa, lütfen Belediye'nin Müşteri Hizmetleri Merkezi'ne gelip kendi dilinizde yardım isteyiniz veya 131 450'den Telefonla Tercüme Servisi'ni (TIS) arayarak onlardan 1300 722 542 numaradan Belediye ile ilişkiye geçmelerini isteyiniz.</p>
<p>Hungarian</p> <p>Amennyiben a levél tartalmát nem érti és segítségre van szüksége, kérjük látogassa meg a Tanácsház Ügyfél Szolgálatát (Customer Service Centre), ahol magyar nyelven kaphat felvilágosítást, vagy hívja a Telefon Tölmács Szolgálatot (TIS) a 131 450 telefonszámon és kérje, hogy kapcsolják a Tanácsházat a 1300 722 542 telefonszámon.</p>	<p>Czech</p> <p>Jestliže potřebujete pomoc při porozumění tohoto dopisu, navštivte prosím naše Středisko služeb pro veřejnost (Council's Customer Service Centre) a požádejte o poskytnutí pomoci ve vaší řeči anebo zavolejte Telefonní tlumočnickou službu (TIS) na tel. číslo 131 450 a požádejte je, aby oni zavolali Městský úřad Randwick na tel. číslo 1300 722 542.</p>	<p>Arabic</p> <p>إذا أردت مساعدة لفهم هذه الرسالة، نرجوكم الحضور إلى مركز خدمة عملاء المجلس وأطلب المساعدة في لغتك، أو يُمكنك الاتصال بخدمة الترجمة الهاتفية (TIS) على هاتف رقم 131 450 وأطلب منهم الاتصال بالمجلس على رقم 1300 722 542.</p>
<p>Chinese</p> <p>如果你需要人幫助你了解這封信的內容，請來市政會顧客服務中心要求翻譯服務，或者與電話傳譯服務（TIS）聯繫，號碼是131 450。請他們幫助你打電話給市政會，號碼是1300 722 542。</p>	<p>Russian</p> <p>Если Вам требуется помощь, чтобы разобраться в этом письме, то, пожалуйста, обратитесь в Муниципальный Центр Обслуживания Клиентов и попросите оказать Вам помощь на Вашем языке или же Вы можете позвонить в Телефонную Службу Переводчиков (TIS) по номеру 131 450 и попросить их связаться с Муниципалитетом по номеру 1300 722 542.</p>	<p>Serbian</p> <p>Ako vam treba pomoć da razumete ovo pismo, molimo vas da dođete do Centra za usluge mušterijama pri Opštini (Customer Service Centre) i zamolite ih da vam pomognu na vašem jeziku, ili možete nazvati Telefonsku prevodičaku službu (TIS) na 131 450 i zamolite ih da vas povežu sa Opštinom na 1300 722 542.</p>

FOR ACTION

RANDWICK LOCAL PLANNING PANEL

11/06/2020

TO: PA to Manager Development Assessment (Halcro, Andrea)

Subject: 23 Belmore Road, Randwick (DA/331/2019)
Target Date: 25/06/2020
Notes:
Document No.: D03750691
Report Type: Report
Item Number: D28/20

RESOLUTION:

That the RLPP refuse consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 331/2019 for redevelopment of the site including retention of ground level restaurant and front 2 storeys of building, with three level boarding house above comprising 11 boarding rooms, communal room and balcony, 1 car space, 16 bicycle spaces, garbage storage and associated works at No. 23 Belmore Road, Randwick for the following reasons:

1. A written request to vary Clause 4.4 floor space ratio pursuant to the RLEP was not submitted and therefore consent cannot be granted.
2. The variation to Clause 4.3 height of buildings pursuant to the RLEP is not supported given the applicant's written request has not adequately demonstrated those matters that are required to be demonstrated in accordance with Clause 4.6 (3) and the variation is not within the public interest in accordance with Clause 4.6 (4).
3. The variation to Clause 30 (1) (h) pursuant to the ARH SEPP is not supported because the variation is not within the public interest in accordance with Clause 4.6 (4) pursuant to the RLEP.
4. The development is not in accordance with Clause 30A character of the local area pursuant to the ARH SEPP.
5. The development does not comply with the ARH SEPP and RDCP in relation to minimum area of communal open space, solar access to communal living room and orientation of boarding rooms, resulting in poor residential amenity.
6. The development is not in accordance with Clause 5.10 heritage conservation pursuant to the RLEP given it will adversely impact the heritage qualities of the contributory buildings and the Randwick Junction Heritage Conservation Area.

CARRIED UNANIMOUSLY.

[Open Item in Minutes](#)

This action sheet has been automatically produced by Administrative Services using **InfoCouncil**, the agenda and minutes database.

Development Application Report No. D28/20

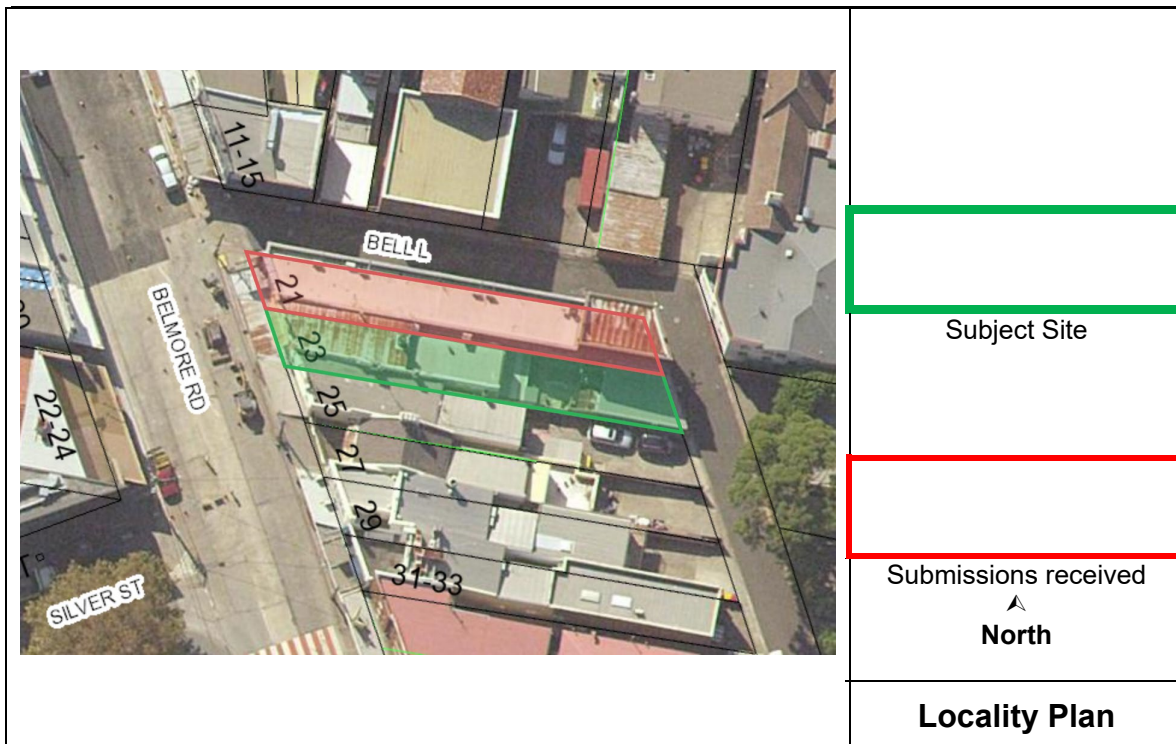
Subject: 23 Belmore Road, Randwick (DA/331/2019)

Proposal:	Redevelopment of site including retention of ground level restaurant and front 2 storeys of building, with three level boarding house above comprising 11 boarding rooms, communal room and balcony, 1 car space, 16 bicycle spaces, garbage storage and associated works (Heritage Conservation Area).
Ward:	West Ward
Applicant:	Mr A Lee
Owner:	Mr A Lee and Ms L Li
Cost of works:	\$3,080,731
Reason for referral:	The development contravenes the development standards for height of buildings and motorcycle parking by more than 10%.

Recommendation

That the RLPP refuse consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 331/2019 for redevelopment of the site including retention of ground level restaurant and front 2 storeys of building, with three level boarding house above comprising 11 boarding rooms, communal room and balcony, 1 car space, 16 bicycle spaces, garbage storage and associated works at No. 23 Belmore Road, Randwick for the following reasons:

1. A written request to vary Clause 4.4 floor space ratio pursuant to the RLEP was not submitted and therefore consent cannot be granted.
2. The variation to Clause 4.3 height of buildings pursuant to the RLEP is not supported given the applicant's written request has not adequately demonstrated those matters that are required to be demonstrated in accordance with Clause 4.6 (3) and the variation is not within the public interest in accordance with Clause 4.6 (4).
3. The variation to Clause 30 (1) (h) pursuant to the ARH SEPP is not supported because the variation is not within the public interest in accordance with Clause 4.6 (4) pursuant to the RLEP.
4. The development is not in accordance with Clause 30A character of the local area pursuant to the ARH SEPP.
5. The development does not comply with the ARH SEPP and RDCP in relation to minimum area of communal open space, solar access to communal living room and orientation of boarding rooms, resulting in poor residential amenity.
6. The development is not in accordance with Clause 5.10 heritage conservation pursuant to the RLEP given it will adversely impact the heritage qualities of the contributory buildings and the Randwick Junction Heritage Conservation Area.



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development contravenes the development standard for height of building pursuant to the RLEP and motorcycle parking pursuant to the ARH SEPP by more than 10%.

The proposal seeks development consent for redevelopment of the site including retention of ground level restaurant and front 2 storeys of building, with three level boarding house above comprising 11 boarding rooms, communal room and balcony, 1 car space, 16 bicycle spaces, garbage storage and associated works.

The key issues associated with the proposal relate to non-compliant building height, FSR, motorcycle parking, incompatibility with the character of the local area, impacts upon heritage significance of the conservation area, and poor residential amenity.

With regards to building height, 12m is permitted and a maximum of 14.04m is proposed. The applicant's written request pursuant to clause 4.6 of the RLEP has not adequately demonstrated that compliance is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify contravening the development standard. Further, the variation is not considered to be within the public interest given the development is not in accordance with the objectives of the height of buildings standard and the B2 Local Centre zone in that the non-compliance will result in adverse visual amenity impacts and overshadowing of neighbouring land, and will compromise the heritage significance of the heritage conservation area and row of contributory buildings that forms part of the site.

With regards to FSR, the maximum permitted FSR is 2:1 and based on Council's calculation the proposed FSR is 2.3:1. The applicant has not submitted a written request to vary the standard pursuant to clause 4.6 of the RLEP and therefore development consent cannot be granted in accordance with clause 4.6 (4) (a) (i) of the RLEP. For the reasons given in relation to the non-compliant building height, the FSR variation is also not considered to be in the public interest.

With regards to motorcycle parking, the proposal does not comply with the ARH SEPP standard that required 2 spaces. The applicant has submitted a written request to vary the standard, which is considered to satisfy Clause 4.6 (4) of the RLEP. However, due to other concerns the

development is not considered to be in the public interest, and therefore the variation is not supported in accordance with clause 4.6 (4) (a) (ii).

With regards to character of the local area and heritage impacts, the development is not considered to be in accordance with clause 30A of the ARH SEPP given the development does not satisfy the character test established in the planning principle *Project Venture Developments v Pittwater Council [2005] NSW LEC 191*. Key concerns are the excessive bulk and scale due to non-compliant building height and FSR. The development will adversely contrast with surrounding buildings, that all read as two storeys from the street. The bulk and scale will adversely impact the heritage significance of the heritage conservation area and contributory buildings within the area, with the development being insensitive and dominating in its context, which is not supported by Council's Heritage Planner. In accordance with the planning principle, the development will also unreasonably constrain the development potential of neighbouring sites in terms of visual amenity, overshadowing, and site layout.

With regards to residential amenity, the development does not comply with key amenity controls in relation to minimum size of communal open space, solar access to communal living, and poor orientation of the internal boarding rooms that face onto an insufficiently sized void / central courtyard. Council's Design Excellence Panel has also raised concerns with the design noting inadequate access to natural light and ventilation due to the small void, which is a direct reflection of the number of rooms / FSR proposed.

In addition to the key issues, it is noted that the applicant's access report identifies the need for 2 x accessible boarding rooms and 2 x accessible car parking spaces. The accessible rooms are not identified on the drawings, and 1 accessible car parking space is provided to serve the entire development. The report advises that a performance-based solution is sought in relation to the provision of only 1 accessible car parking space, however this is not supported noting that the requirement for 2 accessible rooms is on the basis of the overall number of rooms that are proposed. Noting other concerns, a reduced number of rooms is required that will reduce the requirement for accessible rooms / accessible car parking and lessen the extent of the car parking variation.

The highly constrained nature of the site is acknowledged and in the absence of site amalgamation (Council's preferred option) the adopted design philosophy to provide two built forms separated by a central void / courtyard is agreed, however the number of rooms is excessive resulting in non-compliant building height and FSR and a substandard void area that will compromise residential amenity.

A more skilful design is required to alleviate the concerns raised in this report and therefore the proposal is recommended for refusal in its current form.

2. Site Description and Locality

The subject site is known as 23 Belmore Road, Randwick, and is legally described as Lot 8 in DP 82171. The site is 225m², is regular in shape with an east to west orientation and has a 6.13m frontage to Belmore Road to the west and 5.95m frontage to Bell Lane to the east. The site is relatively flat and contains a two-storey shop top housing development comprising ground floor restaurant fronting Belmore Road and a garage at the rear with a 3 bedroom dwelling above. The subject building forms part of a row of attached mixed commercial and residential buildings identified as contributory items within the RDCP. The site is within the Randwick Junction Heritage Conservations Area, and local heritage items located further to the east and south.

The adjoining property to the north (21 Belmore Road) comprises a part two and part three storey commercial and residential building comprising ground floor retail and first floor offices fronting Belmore Road, and a 3 storey dwelling at the rear comprising ground level parking. The adjoining property to the south (25 Belmore Road) comprises a two storey commercial premises with ground floor shop and first floor offices. The surrounding area contains a mixture of commercial and residential uses as part of the B2 Local Centre zone. It is noted that Marcellin College is located to the east.



Figure 1. Site looking east from Belmore Road



Figure 2. Site looking south from Belmore Road



Figure 3. Site looking north-east from Belmore Road



Figure 4. Site looking north-west from Bell Lane

3. Relevant history

Request for additional information

Following a preliminary planning assessment and referral comments from Council's Heritage Planner, Design Excellence Panel, and Environmental Health Officer the following request for additional information / concerns were raised:

- Extent of building height not accurate based on survey drawing.
- Minimal floor to ceiling heights.
- Inadequate written request to vary the building height standard.
- Incorrect GFA calculation that excludes part of the development resulting in a variation to the FSR standard and no written request to vary the standard submitted.
- The bulk and scale is not in accordance with the established character of the area.
- The bulk and scale and complex massing will negatively impact upon and dominate the qualities of the contributory buildings and the heritage conservation area.
- Drawings unclear, including existing and proposed shadows, and elevations provided in isometric view.
- The west-facing, first floor communal room does not receive complaint solar access. It was noted that the second floor does receive more solar access and therefore a reconfiguration was requested.
- Inefficient building layout, with the central staircase receiving solar access, but not the rooms.
- Non-compliant size of communal open space resulting in poor residential amenity.
- Inappropriate building materials that are not sympathetic to the heritage conservation area.
- Non-compliant car parking.
- Environmental health concerns with non-complainant layout of restaurant.
- Environmental health concerns with western rooms that will not achieve acoustic compliance with windows open, and lack of details in the submitted acoustic report regarding the existing operation of the ground floor restaurant and required plant and machinery.

Amended drawings and documentation were received in response to Council's request, however the concerns were not adequately addressed and therefore the amended documentation was not accepted for detailed assessment. The Applicant was subsequently requested to withdraw the application but instead opted for it to be determined.

Pre-lodgement

PL/5/2018 sought advice for a proposed part 3 and part 4 storey mixed use commercial development with a boarding house. The key pre-lodgement advice as summarised is as follows:

- Site consolidation must be explored, with the existing site being highly constrained.
- The single parking space was identified as a concern.
- Concerns with solar access to the subject site, and the adjoining property to the south. Basement car parking should be explored.
- Was recommended that a compliant building envelope be provided to the southern neighbouring property to demonstrate solar access.
- Concerns with the height of the development at both the front and rear of the site, which will not be in accordance with the character of the area.
- Concerns with the small size of the communal open space, and lack of solar access.
- Parts of the breezeways should be included as GFA.
- Inadequate cross-ventilation.
- The development will impact the Heritage qualities of the Heritage Conservation Area.
- Concealed access points that will not provide good surveillance.
- Design Excellence Panel concerns with regards to setback of level 2 to Belmore Road and inadequate size of the boarding rooms.

The submitted DA includes increased density and scale compared to the drawings submitted as part of the pre-lodgement, with the concerns raised at the pre-lodgement stage still relevant.

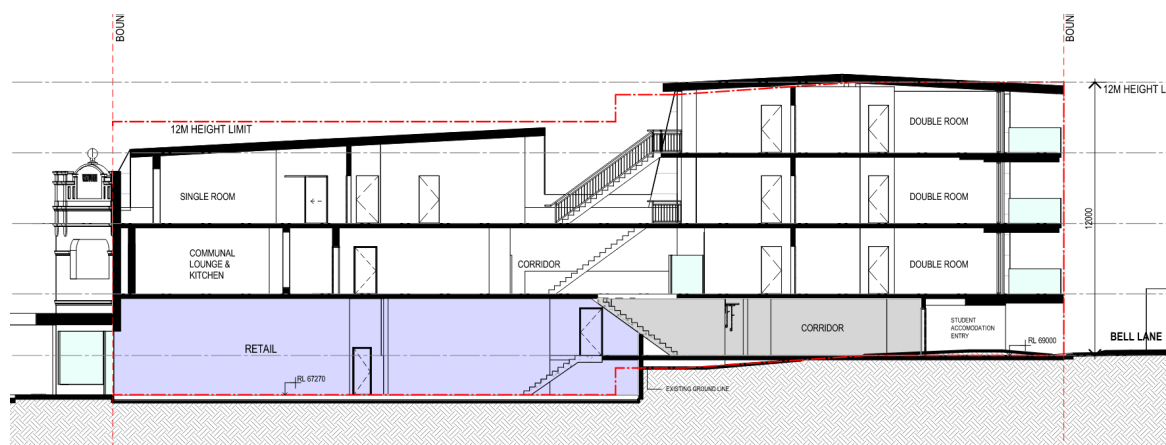


Figure 5. Pre-lodgement section (Belmore Road to the left)

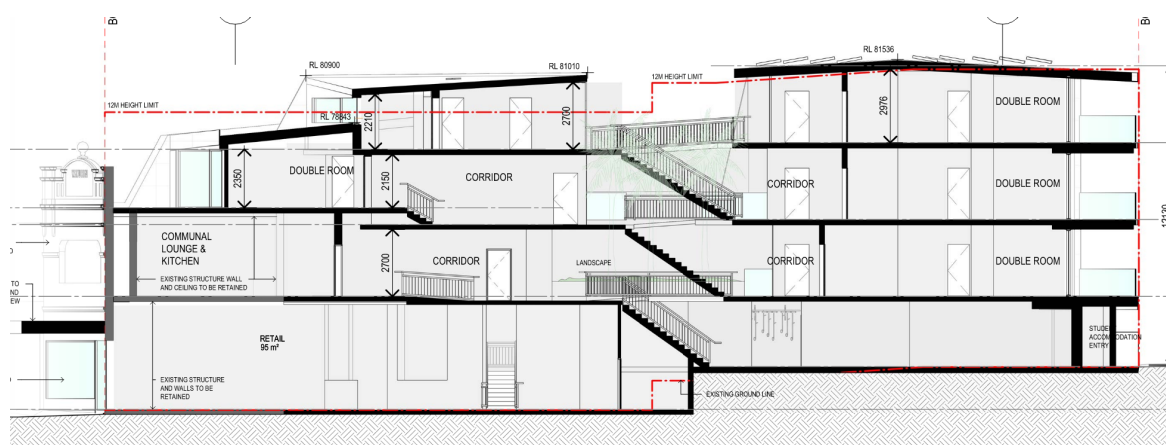


Figure 6. DA proposal (Belmore Road to the left)

4. Proposal

The proposal seeks development consent for redevelopment of site including retention of ground level restaurant and front 2 storeys of building, with three level boarding house above with 11 boarding rooms, communal room and balcony to front, 1 car space, 16 bicycle spaces, garage storage and associated work.

Ground Floor

- Partial demolition of existing building and demolition of rear garage. Retention of a two-storey section of building fronting Belmore Road and removal of metal hood and replacement of awning.
- Reconfigured restaurant and kitchen at the ground floor with capacity for 40 seats with access from Belmore Road.
- Provision of a waste storage area for the restaurant and boarding house.
- Bicycle storage for 16 bicycles.
- Electrical and plant rooms.
- Accessible car parking space accessed from Bell Lane.
- Pedestrian access to the boarding house from Bell Lane.

First Floor – Boarding house

- Communal living area with balcony fronting Belmore Road (balcony occupying original balcony that was since enclosed).
- 2 x single rooms facing an internal landscaped courtyard with balconies.
- 1 x double room with balcony facing Bell Lane.

Second Floor – Boarding house

- 3 x double rooms with 1 facing onto Belmore Road, 1 facing onto a void (to the internal landscaped courtyard below), and 1 facing Bell Lane with a balcony.
- 1 x single room with balcony facing onto the void.

Third Floor – Boarding house

- 1 x double room facing Bell Lane with a balcony.
- 3 x single rooms with 1 facing Belmore Road and 2 facing the internal void (1 with balcony).

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Comprehensive DCP 2013. The following submissions were received as a result of the notification process:

- 21 Belmore Rd, Randwick

Issue	Comment
Overshadowing of adjoining properties that will impact future development potential.	Noted. The proposal is not supported in its current form (refer to Key Issues section)
The proposed courtyard will be impacted by future development of adjoining sites.	Noted. The size of the void / courtyard is considered to be inadequate (refer to Key Issues section).

6. Relevant Environment Planning Instruments**6.1. State Environmental Planning Policy (Affordable Rental Housing) 2009**

The State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) is applicable to the proposed development. Clause 29 provides – *Standards that cannot be used to refuse consent* and Clause 30 provides - *Standards for boarding houses*.

An assessment against these clauses is provided in Appendix 3. In summary, the proposal does not comply with the following:

CI 29 Standards that cannot be used to refused consent

- Maximum permitted FSR (same as RLEP);
- Max building permitted building height (same as RLEP);
- Solar access to communal living room (3 hours required and 1 hour provided.);
- Minimum area of communal open space (20m² required and 8m² provided); and
- Car parking (6 spaces required and 1 space provided).

The proposal can therefore be refused based on these standards should compliance not be achieved.

CI 30 Standards for boarding houses

- Motorcycle parking (2 spaces required and nil spaces provided).

As this is a development standard, the Applicant has submitted a written request to vary the standard pursuant to Clause 4.6 of the RLEP and an assessment is carried out in Section 7 below.

CI 30A Character of the local area

The proposal is assessed as not being in accordance with the character of the local area based on an assessment against the planning principle established by *Project Venture Developments v*

Pittwater Council [2005] NSW LEC 191 (refer to Section 9.1 discussion of Key Issues). Therefore, the consent authority cannot grant consent in accordance with Clause 30A.

6.2. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned B2 Local Centre under Randwick Local Environmental Plan 2012 and the proposal is permissible with consent.

The proposal is inconsistent with the specific objectives of the zone in that:

- the proposed activity and built form will not facilitate a high standard of urban design and pedestrian amenity that will not contribute to achieving a sense of place for the local community; and
- the proposal will not minimise the impact of development and will not protect the amenity of residents in the zone.

The following development standards in the RLEP 2012 apply to the proposal:

Clause	Development Standard	Proposal	Compliance
CI4.3: Building height (max)	12m	<p><i>Western Section</i> 14.04m measured from the eastern ridge (RL81.01) above existing ground level (RL66.97 being 300mm beneath existing slab).</p> <p>13.93m measured from the north-western ridge (RL80.9) above existing ground level (RL66.97 being 300mm beneath existing slab).</p> <p>13.46m measured from the south-western ridge (RL80.43) above existing ground level (RL 66.97 being 300mm beneath existing slab).</p> <p><i>Eastern Section</i> 12.50m measured from the middle ridge (RL81.53) above existing ground level (RL69.03).</p> <p>12.64m measured from the western ridge (RL81.22) above existing ground level (RL68.58).</p>	No
CI4.4: Floor space ratio (max)	2:1 (450m ²)	Based on Council's calculation that includes the enclosed first floor balconies / landscaped area and parts of the enclosed horizontal circulation, the proposed FSR is 2.3:1 (517.46m ²).	No

6.2.1. Clause 4.6 - Exceptions to development standards

The non-compliances with the development standards are discussed in section 7 below.

6.2.2. Clause 5.10 - Heritage conservation

The subject building forms part of a row of attached mixed commercial and residential buildings identified as contributory items within the Randwick Junction Heritage Conservations Area. Local heritage items are also located further to the east and south and therefore an assessment against Clause 5.10 of the RLEP is required.

Objectives The objectives of this clause are as follows—

- to conserve the environmental heritage of Randwick,*
- to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*

- (c) to conserve archaeological sites,
 (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

Clause 4 requires the consent authority to consider the effect of the proposed development on the heritage significance of the item or area concerned. Council's Heritage Planner has assessed the proposed development (refer to Referral comments at Appendix 1) and although retention of the front portion of the building and reinstatement of the original balconies is supported, raises concerns with the following aspects of the proposal:

- Lack of detail surrounding the heritage significance of the rest of the building fabric sought to be demolished (a schedule of heritage conservation works is required).
- Visual amenity impacts upon the heritage conservation area due to the complex building envelope comprising front and rear sections separated by a partial courtyard, with the front section having a stepping form highly visible in the streetscape.
- The proposed addition is not sensitive to the heritage setting and will dominate and compete with the existing and adjacent contributory buildings.
- The proposed addition will be a prominent element in the skyline of the heritage conservation area.

It is acknowledged that the site can be further development in accordance with planning standards and controls, however it is considered that the design approach taken is not sensitive to the heritage setting and is not reflective of the desired future character of the area. In this regard, the proposal is assessed as having a negative effect upon the heritage conservation area in accordance with Clause 5.10 of the RLEP.

7. Clause 4.6 exception to a development standard

The proposal seeks to vary the following development standards contained within the Randwick Local Environmental Plan 2012 (RLEP 2012), and the ARH SEPP:

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
Cl 4.3 of the RLEP: Building height (max)	12m	<i>Western Section</i> 14.04m measured from the eastern ridge (RL81.01) above existing ground level (RL66.97 being 300mm beneath existing slab).	2.04m	17%
		13.93m measured from the north-western ridge (RL80.9) above existing ground level (RL66.97 being 300mm beneath existing slab).	1.93m	16%
		13.46m measured from the south-western ridge (RL80.43) above existing ground level (RL 66.97 being 300mm beneath existing slab).	1.46m	12%
		<i>Eastern Section</i> 12.50m measured from the middle ridge (RL81.53) above existing ground level (RL69.03).	0.5m	4%
		12.64m measured from the western ridge (RL81.22) above existing ground level (RL68.58).	0.64m	5%
Cl 4.4 of the RLEP: Floor space	2:1 (450m ²)	2.3:1 (517.46m ²)	67.5m ²	15%

ratio (max)				
CI 30 (1) (h) of the ARH SEPP: Motorcycle spaces (min)	1 motorcycle space per 5 boarding rooms (2 spaces required)	Nil	-2 spaces	200%

Clause 4.6 of RLEP 2012: Exception to a Development Standard relevantly states:

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
4. *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ summarised the matters in Clause 4.6 (4) that must be addressed before consent can be granted to a development that contravenes a development standard.

1. *The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 reinforces his previous decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 where he identified five commonly invoked ways of establishing that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. The most common is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

2. *The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.*

Chief Justice Preston in ***Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118** reinforces the previous decision in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 regarding how to determine whether 'the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard'.

The grounds relied on by the applicant in their written request must be "environmental planning grounds" by their nature. Chief Justice Preston at [23] notes the adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s1.3 of the EPA Act.

Chief Justice Preston at [24] notes that there here are two respects in which the written request needs to be “sufficient”.

1. The written request must focus on the aspect or element of the development that contravenes the development standard, not the development as a whole (i.e. The written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole); and
2. The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31] Judge Pain confirmed that the term ‘sufficient’ did not suggest a low bar, rather on the contrary, the written report must address sufficient environmental planning grounds to satisfy the consent authority.
3. *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [27] notes that the matter in cl 4.6(4)(a)(ii), with which the consent authority must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

It is the proposed development’s consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii).

4. *The concurrence of the Secretary has been obtained.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [28] notes that the other precondition in cl 4.6(4) that must be satisfied before consent can be granted is whether the concurrence of the Secretary has been obtained (cl 4.6(4)(b)). In accordance with Clause 4.6 (5), in deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for state or regional environmental planning, and
- (b) the public benefit of maintaining the development standard

Under clause 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary’s concurrence for exceptions to development standards in respect of applications made under cl 4.6 (subject to the conditions in the table in the notice).

The approach to determining a clause 4.6 request as summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, has been used in the following assessment of whether the matters in Clause 4.6(4) have been satisfied for each contravention of a development standard.

7.1. Exception to the Building Height development standard (Clause 4.3)

The applicant’s written justification for the departure from the building height standard is contained in Appendix 2.

1. Has the applicant's written request adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?

The applicant's written request seeks to justify the contravention of the building height development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant objectives of the standard are still achieved.

The objectives of the building height standard are set out in Clause 4.3 (1) of RLEP 2012. The applicant has addressed each of the objectives as follows:

(a) to ensure that the size and scale of development is compatible with the desired future character of the locality

The applicant's written justification demonstrates that this objective is satisfied by noting that:

- the non-compliant section fronting Belmore Road is setback 8.8m from the front boundary and will not dominate sightlines;
- the non-compliant section fronting Bell Lane is the result of the topography and need to provide parking;
- the development presents as two storeys to Belmore Road; and
- future development either side of the site will obscure the development;

(b) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,

The applicant's written justification demonstrates that this objective is satisfied by noting that:

- the development is sensitive to the heritage fabric and neighbouring development; and
- the upper levels are sufficiently setback so as not to dominate the exiting façade;

(c) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

The applicant's written justification demonstrates that this objective is satisfied by noting that:

- bulk and scale is minimised and will not be prominent when viewed from the rear yards of the neighbouring properties;
- overlooking to neighbouring properties is minimised;
- compliance with the 12m building height standard will have no material benefit to improving solar access to neighbouring properties; and
- the proposal will not impact any known views or vistas.

Assessing officer's comment: In conclusion, the applicant's written request has not adequately demonstrated that compliance with the height of buildings development standard is unreasonable or unnecessary in the circumstances of the case for the following reasons:

- the non-compliance will result in adverse bulk and scale that is not compatible with the desired future character of the area;
- the additional bulk and scale will adversely impact the heritage qualities of the contributory buildings and the heritage conservation area; and
- the development will adversely impact the visual amenity and solar access of neighbouring land.

2. Has the applicant's written request adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard?

The applicant's written request seeks to demonstrate that there are sufficient environmental planning grounds to justify contravening the height of buildings development standard as follows:

- the non-compliance will not result in significant adverse visual amenity impacts given the setback provided to the frontages;
- the non-compliance will not result in significant additional overshadowing to neighbouring properties;
- the non-compliance allows the significant heritage elements to be retained;
- the non-compliance allows for compliant floor to ceiling heights;
- the development provides for affordable rental housing;
- the development represents orderly and economic development of the site;
- the development is within the public interest;

Assessing officer's comment: In conclusion, the applicant's written request has not adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard for the following reasons:

- the site is highly constrained with a narrow allotment width and being within a heritage conservation area that is subject to contributory buildings. The non-compliance represents additional bulk and scale over and above what is acceptable for a site that is not highly constrained. The additional bulk and scale in this regard will have an adverse impact upon the heritage qualities of the site and the heritage conservation area; and
- the floor to ceiling heights do not comply with the RDCP and will therefore afford poor residential amenity. Increased floor to ceiling heights would further increase the non-compliance, and in this regard the site is not suitable to accommodate the increased building height.

3. Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

To determine whether the proposal will be in the public interest, an assessment against the objectives of the height of buildings standard and B2 Local Centre zone is provided below:

Assessment against objectives of the height of buildings standard

- (a) to ensure that the size and scale of development is compatible with the desired future character of the locality,*

Assessing officer's comment: The desired future character of the locality is established in the applicable development standards and controls. The size and scale of the proposed development is incompatible with the 'desired future character of the locality' noting that it is inconsistent with Clause 5.10 of the RLEP with regards to heritage conservation, does not satisfy the character test pursuant to Clause 30A of the ARH SEPP, and does not comply with key envelope controls in relation to FSR and building height.

- (b) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,*

Assessing officer's comment: The proposed development is incompatible with the scale and character of the local heritage area and the contributory buildings that form part of the site. Council's Heritage Planner has reviewed the application and has advised that the additions will compete with the heritage qualities of the building and will dominate the heritage setting (refer to Appendix 1).

- (c) *to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.*

Assessing officer's comment: The proposed development will adversely impact the visual amenity of neighbouring properties, in particular the three storey dwelling to the north at 21 Belmore Road that comprises rooftop POS and the two storey commercial premises to the south that contains east-facing windows and ground level open space. Properties further the south will also be impacted with 27 Belmore Road comprising a first floor dwelling with north-facing living room windows and POS (BA/16/1979), and 29 Belmore Road comprising ground and first floor dwellings with north-facing living room windows and POS (DA/98/2006). Further, the east-facing first floor of buildings on the western side of Belmore Road will be adversely impacted by visual bulk and scale.

The proposal will also cause increased overshadowing to southern properties over and above what is envisaged based on the envelope controls that will unreasonably restrict future development.

Based on the above assessment, it is considered that development will adversely impact the amenity of adjoining and neighbouring land in terms of visual bulk and overshadowing.

The development is therefore inconsistent with the objectives of the height of buildings standard.

Assessment against objectives of the B2 Local Centre zone

The objectives of B2 Local Centre zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To enable residential development that is well-integrated with, and supports the primary business function of, the zone.*
- *To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community.*
- *To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.*
- *To facilitate a safe public domain.*

Assessing officer's comment: The proposed development will not facilitate a high standard of urban design, with the increased bulk and scale not being in accordance with the desired future character of the area and negatively impacting upon heritage qualities. In this regard, the development will not provide a high standard of pedestrian amenity and will not contribute to a sense of place but will rather compete with the heritage context and erode its significance.

The development will not protect the amenity of occupants due to non-compliances with controls related to solar access, size of communal open space and floor to ceiling heights. The development will not protect the amenity of surrounding residents due to adverse visual amenity and overshadowing impacts.

The development is inconsistent with the objectives of the height of buildings standard and the B2 Local Centre zone. Therefore the development will not be in the public interest.

4. Has the concurrence of the Secretary been obtained?

In assuming the concurrence of the Secretary of the Department of Planning and Environment the matters in Clause 4.6(5) have been considered:

Does contravention of the development standard raise any matter of significance for state or regional environmental planning?

The proposed development and variation from the development standard does not raise any matters of significance for state or regional environmental planning.

Is there public benefit from maintaining the development standard?

Variation of the height of buildings standard will not allow for the orderly use of the site and there is considered to be a public benefit in maintaining the development standard in this instance.

Conclusion

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(4) have not been satisfied and that development consent may not be granted for development that contravenes the building height development standard.

7.2. Exception to the Floor Space Ratio (FSR) development standard (CI 4.4)

The Applicant's SEE states compliance with the FSR development standard. However, based on Council's calculation the proposed FSR is 2.3:1 (517.46m²), which includes the enclosed first floor balconies / landscaped area and parts of the enclosed horizontal circulation.

The applicant did not submit a written request pursuant to Clause 4.6 (3) of the RLEP, and therefore the development cannot be approved pursuant to Clause 4.6 (4) of the RLEP.

7.3. Exception to the number of required motorcycle spaces development standard (CI 30 (1) (h) of the ARH SEPP)

The applicant's written justification for the departure from the FSR standard is contained in Appendix 2.

1. Has the applicant's written request adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?

The applicant's written request seeks to justify the contravention of the required motorcycle spaces development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant aims of the ARH SEPP are still achieved.

The aims of the ARH SEPP are set out in Clause 3 of the ARH SEPP:

The aims of this Policy are as follows—

- (a) to provide a consistent planning regime for the provision of affordable rental housing,*
- (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,*
- (c) to facilitate the retention and mitigate the loss of existing affordable rental housing,*
- (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,*
- (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,*
- (f) to support local business centres by providing affordable rental housing for workers close to places of work,*
- (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.*

The applicant has addressed the aims of the ARH SEPP as follows:

- the proposal seeks to deliver new affordable housing in a boarding house as part of a mixed-use building;
- the proposal does not involve the loss of any existing affordable rental accommodation;
- the proposal will provide affordable rental accommodation in close proximity to local places of employment (e.g. UNSW, Prince of Wales Hospital), places of education (e.g. Randwick TAFE, UNSW) and nearby businesses;
- the proposal provides for an overabundance of bicycle parking;
- the provision of motorcycle parking within the rear of the site would raise safety issues;
- the site is within an accessible area, being approximately 500m walking distance of two (2) light rail stations;
- the site is within the immediate vicinity of bus stops on Belmore Road and Alison Road;
- the site is within the immediate vicinity of cycle routes marked throughout the area;
- the site is well serviced by various car share pods; and
- the site is within the Randwick Junction Town Centre, where a range of services and infrastructure is provided.

Assessing officer's comment: In conclusion, the applicant's written request has adequately demonstrated that compliance with the required number of motorcycle spaces is unreasonable or unnecessary in the circumstances of the case. In addition, it is noted that an accessible car parking space is required to serve the accessible boarding room and therefore there is no area available to provide a motorcycle parking space.

2. Has the applicant's written request adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard?

The applicant's written request seeks to demonstrate that there are sufficient environmental planning grounds to justify contravening the required number of motorcycle spaces standard as follows:

- the site is well-located in relation to public transport (buses and light rail);
- the proposal provides an over-supply of bicycle parking;
- given the location of the site and proximity to nearby services, employment and infrastructure, it is likely that trips will be made on foot, by bike or public transport rather than by motorcycle; and
- the nominal two (2) motorcycle parking space deficiency is considered minor and able to be absorbed in the locality without having any noticeable impact on the availability of motorcycle parking.
- the characteristics of the site are such that a better and safer outcome is achieved in the absence of motorcycle parking.
- the proposal encourages occupants to walk or cycle to and from the site rather than rely on motorcycles, which is appropriate noting the central location of the site.

Assessing officer's comment: In conclusion, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

3. Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

To determine whether the proposal will be in the public interest, an assessment against the aims of the ARH SEPP and objectives of the B2 Local Centre zone is provided below:

Assessment against the aims of the ARH SEPP

For the reasons outlined in the applicant's written request, the development is consistent with the aims of the ARH SEPP.

Assessment against objectives of the B2 Local Centre zone

The objectives of B2 Local Centre zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To enable residential development that is well-integrated with, and supports the primary business function of, the zone.*
- *To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community.*
- *To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.*
- *To facilitate a safe public domain.*

Assessing officer's comment: The proposed development will not facilitate a high standard of urban design, with the increased bulk and scale not being in accordance with the desired future character of the area and negatively impacting upon heritage qualities. In this regard, the development will not provide a high standard of pedestrian amenity and will not contribute to a sense of place but will rather compete with the heritage context and erode its significance.

The development will not protect the amenity of occupants due to non-compliances with controls related to solar access, size of communal open space and floor to ceiling heights. The development will not protect the amenity of surrounding residents due to adverse visual amenity and overshadowing impacts.

Although the development is consistent with the aims of the ARH SEPP, it is inconsistent with the objectives of the B2 Local Centre zone. Therefore the development will not be in the public interest.

4. Has the concurrence of the Secretary been obtained?

In assuming the concurrence of the Secretary of the Department of Planning and Environment the matters in Clause 4.6(5) have been considered:

Does contravention of the development standard raise any matter of significance for state or regional environmental planning?

The proposed development and variation from the development standard does not raise any matters of significance for state or regional environmental planning.

Is there public benefit from maintaining the development standard?

Variation of the required motorcycle parking spaces standard will allow for the orderly use of the site and there is a no public benefit in maintaining the development standard in this instance.

Conclusion

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(4) have not been satisfied, specifically in relation to Clause 4.6(4) (ii) with regards to the development being consistent with the objectives of the B2 Local Centre zone, which must be satisfied. Therefore, development consent may not be granted for development that contravenes the required motorcycle parking spaces development standard.

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

The DCP provisions are structured into two components: objectives and controls. The objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

The relevant provisions of the DCP are addressed in Appendix 4. In summary, the development does not comply with the boarding house controls relating to orientation of boarding rooms to achieve adequate solar access and ventilation, size of balconies, size / orientation / design of communal open space, and the development does not satisfy the Randwick Junction Centre controls in relation to compatibility with the contributory facades, choice of materials and bulk and scale.

9. Environmental Assessment

The site has been inspected and the application has been assessed having regard to Section 4.15 of the Environmental Planning and Assessment Act, 1979, as amended.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	Does not comply. See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal does not satisfy the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 4 and the discussion in key issues below.
Section 4.15(1)(a)(iia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(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	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is inconsistent with the desired future character in the locality.</p> <p>The proposal will result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. Notwithstanding, the site does not have sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is not considered suitable for the proposed development.
Section 4.15(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 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(e) – The public interest	The proposal does not promote the objectives of the zone and will result in significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is not considered to be in the public interest.

9.1. Discussion of key issues

9.1.1 Character of the Local Area

Clause 30A of the ARH SEPP states: *A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.*

Planning comment: A planning principle has been established via *Project Venture Developments v Pittwater Council [2005] NSW LEC 191* to test whether a proposal is compatible with the character of the area on the basis that:

Where compatibility between a building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions should be asked.

1. *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
2. *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

In response to point no. 1 of the planning principle, the physical impacts on surrounding development is not acceptable given:

- The built form will result in visual amenity impacts when viewed from adjoining properties due to the bulk and scale afforded by the non-compliant FSR and building height.
- The built form will result in increased overshadowing of the southern adjoining property that is over and above what is envisaged based on a compliant envelope.
- The proposed void area is too minimal to permit adequate daylight and ventilation for the centrally orientated boarding rooms. This unreasonably restricts the amenity of future development to the south that would need to adopt a similar minimal void area to maintain the separation that would be established by this development.
- The extent of the car parking and motorcycle parking variations is a result of the number of boarding rooms proposed. This will unreasonably restrict the availability of on street parking for future development that may also need to rely on a (lesser) parking variation given the constraints of the respective sites.

In response to point no. 2 of the planning principle, the appearance of the building is not in harmony with the buildings around it and the character of the street given:

- The size and scale of the development and inappropriate design and materials dominates the heritage qualities of the contributory buildings in the streetscape and the Heritage Conservation Area, which is not supported by Council's Heritage Planner (refer to Appendix 1).
- The proposed 4 storey building visually contrasts with the height and number of storeys of surrounding buildings, which read as two storeys from the street. The planning principal acknowledges that there are situations where extreme differences in scale and appearance produces good urban design involving landmark buildings. In this context however, there are

no landmark buildings and the excessive building height results in a building that will become dominant in its context, which is therefore not in harmony with other buildings.

- The non-compliant building height and inadequate floor to ceiling heights indicates that the site and surrounding sites are capable of comfortably accommodating a maximum of 3 storeys.

Therefore, based on an assessment against the planning principle, the proposed development is not considered to be in accordance with the character of the area.

9.1.2 Residential Amenity

The proposed development results in a number of non-compliances with the ARH SEPP and RDCP that will result in poor residential amenity for future occupants. These concerns are also shared with Council's Design Excellence Panel (refer to Appendix 1).

- The inward-facing boarding rooms and balconies are not orientated to receive maximum sunlight. In particular, the 4 x boarding rooms at levels 1 and 2. Based on comments from Council's DEP, it is unlikely that these rooms will receive adequate access to natural light and ventilation given the small size of the void, which according to the DEP will become a heat trap.
- The inward-facing balconies are less than 4m², with one provided at 1.6m².
- Floor to ceiling heights are <2.7m, being 2.2m in parts that does not comply with Part C3 of the RDCP (used as a guide) nor the BCA.
- The rear, eastern boarding rooms are provided with excessive circulation that reduces the size of the actual living area.
- The outdoor communal open space is <20m², being 8m² and having dimensions less than 3m.
- The west-facing communal open space is not orientated to receive maximum solar access, does not incorporate hard and soft landscaping or shared communal facilities.
- The west-facing communal room receives <3 hours solar access (1 hour).
- The development exceeds maximum permitted building height and FSR standards. As noted by the Randwick Junction Centre DCP, the maximum FSR may not be achievable as the height standard is not satisfied, and residential amenity standards are not able to be achieved.
- The proposed resident's entry is through a car space / garage that does not provide for good residential circulation or safety.

The highly constrained nature of the site is acknowledged, and the adopted design philosophy to provide two built forms separated by a central courtyard is agreed, however the number of rooms is excessive resulting in a substandard void area that will compromise residential amenity. As noted by the DEP, *a significant portion of this void space is taken up by circulation along the stair and almost no light reaches the courtyard at winter solstice. A primary objective of private open space for boarding houses is to provide access to social opportunities and sunlight.*

It is considered that should the fourth storey be deleted there might be an opportunity to enlarge the void and provide a communal living room in the form of a habitable roof space with a sufficiently sized communal open space on the roof that will receive adequate solar access with multiple aspects. This would however require a new development application given the extent of changes required.

10. Conclusion

That the application for redevelopment of the site including retention of ground level restaurant and front 2 storeys of building, with three level boarding house above comprising 11 boarding rooms, communal room and balcony, 1 car space, 16 bicycle spaces, garbage storage and associated works be refused for the following reasons:

1. A written request to vary Clause 4.4 floor space ratio pursuant to the RLEP was not submitted and therefore consent cannot be granted.
2. The variation to Clause 4.3 height of buildings pursuant to the RLEP is not supported given the applicant's written request has not adequately demonstrated those matters that

are required to be demonstrated in accordance with Clause 4.6 (3) and the variation is not within the public interest in accordance with Clause 4.6 (4).

3. The variation to Clause 30 (1) (h) pursuant to the ARH SEPP is not supported because the variation is not within the public interest in accordance with Clause 4.6 (4) pursuant to the RLEP.
4. The development is not in accordance with Clause 30A character of the local area pursuant to the ARH SEPP.
5. The development does not comply with the ARH SEPP and RDCP in relation to minimum area of communal open space, solar access to communal living room and orientation of boarding rooms, resulting in poor residential amenity.
6. The development is not in accordance with Clause 5.10 heritage conservation pursuant to the RLEP given it will adversely impact the heritage qualities of the contributory buildings and the Randwick Junction Heritage Conservation Area.

Appendix 1: Referrals

1. Heritage Planner

The Site

The site is within the Randwick Junction heritage conservation area and is occupied by a two storey Edwardian style building comprising ground floor retail and upper floor commercial/residential. The building features a curved parapet with rendered mouldings and string courses. No.25 Belmore Road immediately to the south is similar in style.

The site is within the Randwick Junction heritage conservation area, with nos.23, 25, 29 and 31 – 33 Belmore Road identified as Contributory Facades. In terms of aesthetic significance, the Statement of Significance for the heritage conservation area notes that buildings are generally two to three storeys and are generally built to the street alignment for the full width of the allotment. To the south of the site at nos.35 – 43 Belmore Road is a three storey Art Deco building, listed as heritage item under Randwick LEP 2012. To the east of the site are at nos.191 and 193 Alison Road, are “Seabird” and “Glanmire” also listed as heritage items. The NSW Heritage Database listing for nos.35 – 43 Belmore Road notes the aesthetic significance of the building, which demonstrates the key characteristic elements of the Art Deco style, with impressive and distinct brickwork detailing created by combination of geometric pattern, and polychromatic and textured face brick.

Proposal

The application proposes substantial demolition and alterations and additions to the existing building to provide a four storey building behind the existing two storey façade. At ground floor level, it is proposed to provide a restaurant, service areas and a rear car space accessed from Bell Lane. Upper floor levels comprise communal areas and single and double boarding house rooms on either side of a partial courtyard.

Submission

The application has been accompanied by a Statement of Heritage Impact submission prepared by NBRS + Partners. In terms of exterior detail, the SHI notes the building was first constructed c.1892, altered and extended in the late 1930s, and altered several times since then, with the front façade above the awning close to being intact apart from the insertion of the window in the original opening and rendering of brickwork. In terms of interior detail, the SHI advises that the ground floor appears to retain no original fittings, fixtures or finishes, but the first floor has retained some of its original layout, especially the front room which retains its original walls, cornice and pressed metal ceiling, and the former front balcony which retains its fine tessellated tile floor. The SHI notes that the stairwell and an adjacent storeroom contain some original elements, but the rear section of the building at ground and first floor level has very little heritage significance. In relation to Views, the SHI advises that the primary views of the subject site are those of the front facade on Belmore Road and from the east end of Silver street, with no distant views or vistas available from, or of, the subject site because it is not taller than its neighbours. In terms of significance, the SHI advises that:

The early Federation shop with a dwelling above, has a façade above awning level that contributes some historical and aesthetic heritage value to the Randwick Junction Conservation Area. This streetscape contribution would be enhanced by restoring the balcony. The front room at first floor level is partly intact. The other built elements of the site lack a period origin or sufficient integrity to contribute to the conservation area. The place does not meet the threshold for local heritage listing.

The SHI advises that the proposal includes demolition of the 1930s rear extension and the highly altered rear section of the shop, leaving the front room on the first floor and its façade and party walls; and that the front façade would be conserved by patching chipped sections of the decorative render and re-opening the balcony arch.

In relation to positive and negative impacts of the proposal, the SHI advises that the restoration of the balcony would have a positive impact on the conservation area, that the upper-most portions of the development would be visible from the public domain but the original front façade would be the dominant element of the building in all views of the site from Belmore Road.

In relation to Demolition, the SHI considers that the fabric which is to be removed at ground and first floor level and to the rear, makes little contribution to the conservation area. In relation to additions, the SHI notes that new building bulk would be set back behind the upper front room, by more than 7m, with the upper portions of the development designed to resemble roof elements. In relation to adjacent heritage items, the SHI considers that the proposal will have a similar scale to the adjacent heritage item in Belmore Road, and to surrounding development in Bell Lane (to the rear of the Alison Road heritage items. The SHI concludes that the design of the minor alterations has been designed to contrast quietly with the retained sections of the building, that all existing views to and from the heritage items in the vicinity will be unchanged, and that the application will have an acceptable impact on the Randwick Junction Conservation Area.

Controls

Clause 5.10(1) of Randwick Local Environmental Plan 2012 includes an Objective of conserving the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views.

Clause 5.10(4) of Randwick Local Environmental Plan 2012 requires Council to consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area.

In relation to contributory buildings, the Randwick Junction section of Randwick Development Control Plan 2013 advises that contributory buildings should be retained, original fabric conserved, new work should be sensitive, and neighbouring development should be sympathetic to their character. In relation to Building Design, the DCP includes an Objective that new development respects the detailing, materials and finishes of surrounding heritage and contributory buildings.

Demolition

The proposal to retain the front section of the building at ground and first floor level allows for the retention of the front room at first floor level including walls, cornice and pressed metal ceiling, and provides a separation between new and existing building fabric which relates to the layout of the original building. The retention of the front section of the building should provide a reasonable level of structural integrity to the façade of the building.

All fabric in the rear section of the building is to be demolished, which generally appears to include later alterations and additions, and secondary building fabric which has been considerably altered.

Conservation works

The opening up of the previously enclosed upper level balcony will reinstate the traditional interface between the building and street and provide depth to the front façade. The HIS advises that the front façade will be conserved by patching chipped sections of the decorative render, however elevations note only "existing façade to be reinstated". It is suggested that a schedule of conservation works be sought providing further detail on required internal and external conservation works.

Streetscape visibility of the addition

The site is around 5.5m wide and highlights the difficulties in achieving a successful design with regard to external form and internal amenity. Lots along both sides of Belmore Road have an awkward configuration where the front boundary and most front facades are at a 45 degree angle to the side boundaries. It is noted that the new development opposite at nos.12 – 14 Belmore Road has also adopted the approach of relating the front wall of the addition to the line of the front façade.

The second level of the addition will be around 1.5m above the existing parapet, while the third level of the addition will be around 3m above the existing parapet. Photomontages which have been submitted indicate that the proposed addition will be screened by no.25 Belmore Road and will have no visibility along Belmore Road from the south. Photomontages indicate however that from the north, the proposed addition will have considerable visibility across Bell Lane and above no.21 Belmore Road.

The HIS argues that upper portions of the development have been designed to resemble roof elements, and the proposal has been designed to contrast quietly with the retained sections of the building. The proposed addition however have a complex building envelope comprising front and rear sections separated by a partial courtyard, with the front section having a stepping form highly visible in the streetscape. Any proposal for the site should demonstrate a very sensitive relationship between existing building fabric which is to be retained, and the proposed addition. There are concerns that the proposed addition will dominate and compete with the existing and adjacent contributory buildings, and that it will be a prominent element in the skyline of the Randwick Junction heritage conservation area. The removal of the top level of the front section of the proposed addition would considerably simplify the building envelope and reduce the bulk and visibility of the proposal.

Comment should be sought on the consistency of the proposal with the building envelopes contained in the planning strategy for Randwick Junction town centre which is currently being developed.

2. Design Excellence Panel

Although the proposed boarding house is not subject to SEPP 65, the proposal was referred to Council's Design Excellence Panel for comment on the architectural merit of the design.

INTRODUCTION

Attached is a copy of the minutes relating to this SEPP 65 meeting.

The Panel's comments are intended to assist Council in their design consideration of an application against the SEPP 65 principles. The absence of a comment under a head of consideration does not imply that particular matter to be satisfactorily addressed, more likely the changes are suggested elsewhere to generate a desirable change.

Your attention is drawn to the following;

- 1. SEPP 65, including the 9 Design Quality Principles and the requirements for a Qualified Designer (a Registered Architect) to provide Design Verification Statements throughout the design, documentation and construction phases of the project.*
- 2. The Apartment Design Guide, as published by Planning NSW (July 2015), which provides guidance on all the issues addressed below.*

Both documents are available from the NSW Department of Planning.

Note:

The Design Review Panel is appointed by the NSW Minister for Planning, on the recommendation of Council. The Panel's written and verbal comments are their professional opinions and constitute expert design quality advice to Randwick Council, the architect and the applicant.

- 1. To address the Panel's comments, the applicant may need to submit amended plans. Prior to preparing any amended plans or attending additional Panel presentations, the applicant MUST discuss the Panel's comments and any other matter that may require amendment with Council's assessing Planning Officer.*
- 2. When addressing the Panel's comments by way of amendments, if the applicant does not propose to address all or the bulk of the Panel's comments, and wishes to make minor amendments only, then it should be taken that the Panel considers the proposal does not meet the SEPP 65 requirements. In these instances it is unlikely the scheme will be referred back to the Panel for further review.*

PANEL COMMENTS

This is a DA for alterations and additions to an existing building. This is the second review for this proposal with the first taking place at a Pre-DA meeting in April 2018.

The scheme proposes an infill boarding house with 11 rooms compressing single and double room configurations. A retail shop of approximately 100sqm is provided at the front of the building with Belmore Road access. The proposed building is separated into two 4 storey buildings by a 12sqm landscaped space and circulation corridors in the centre of the block. One accessible car space and 16 bike racks are proposed.

An amalgamation study was undertaken with sites immediately to the north and south of the site. The study was inconclusive with no offers for amalgamation being taken up.

Principle 1: Context and Neighbourhood Context

The site comprises a single lot with a street address of 23 Belmore Road, Randwick. The site is located between Bell Lane and Belmore Road. The building that occupies the site has a commercial premises fronting towards Belmore Road with service access and one garage space from Bell Lane.

The site is located about 70m south of Alison Park and in an established commercial area within 180m of the Royal Randwick Shopping Centre. The site has good access to amenities such as churches, schools, banks, police station and is just over 600m from UNSW. The site is located at approximately 450m from the Randwick Hospital and the Sydney Children's Hospital. The area draws a number of workers, students and residents together for shopping, dining and services.

Belmore Road is the main commercial strip of the Randwick town centre strategically located between Alison Road, Avoca Street and High Street. The road reserve is almost 20m wide and has a wide carriageway that allows for buses and parallel parking along the pavement providing good transport access to the site. The nearest light rail stop is approximately 450m to the south at High Street.

Although not listed as a heritage item itself, the building is a contributory item within a heritage conservation zone, in particular, the façade facing Belmore Road. The character Belmore Road is that of a local shop-top high street with a variety of façade types, materials and period styles that contribute to its rich and fine grained character. The rear lane consists of service and parking areas of little architectural merit and provides entries to shop top housing and the rear entry of the Marcellin College Randwick. The front of the site requires a sensitive design approach to integrate any visible new development with the scale and character of Belmore Road.

At the rear of the site buildings vary from 2 to 3 storeys in height. Along Belmore Road buildings are generally 2 to 3 storeys up to a new RFB of 8 storeys adjacent to the Royal Randwick Shopping Centre.

Principle 2: Scale and Built Form

The front wall and parts of the original building have been retained in the scheme. The original open balcony along Belmore Road on Level 1 has been restored.

The scheme is 4 storeys in height facing Belmore Road and Bell Lane. The site steps upward towards Bell Lane approximately 1.7m near the mid-point. Height limits of 12m across the site step to reflect this.

The scheme provides an infill solution that occupies the full footprint of the site. The proposed greatest building height is about 12.91m, which is beyond the 12m LEP height limit. The Panel suggests that the building height comply with the allowable height in the LEP to minimise any potential scale and overshadowing impacts to the surrounding context.

It is noted that a 4m and an 8.8m setback along Belmore Road are proposed on Level 2 and Level 3 respectively. The proposed secondary setbacks along Belmore Road will provide scale mitigation and will reduce impacts to the contributory façade along Belmore Road.

Assessing Officer's Comment: The extent of the building height variation is greater than 12.91m and further, an FSR variation is proposed that was not acknowledged by the applicant. Although it is acknowledged that the increased setbacks to the upper levels from Belmore Road helps to reduce impacts, the resulting bulk and scale is still inappropriate and will result in adverse visual amenity impacts upon the streetscape and surrounding properties. Council's Heritage Planner has

assessed the proposal and advises that the additions will dominate and compete with the heritage qualities of the area.

Principle 3: Density

The scheme notes a proposed FSR ratio of 2.1:1, which exceeds the LEP control of 2.0:1. The actual FSR would be higher if additional areas that are enclosed by walls of 1.4m or above are included. This would result in an FSR of approximately 2.2:1.

Principle 4: Sustainability

In response to previous Panel comments, solar panels, ceiling fans and skylights on the roof have been introduced in the proposal. The Panel is in support of this approach. Other sustainability measures should be adopted, including:

- Rainwater harvesting, storage, treatment and re-use, for garden irrigation, toilets and laundry.*
- A compost area should be provided in the landscaped area.*

Principle 5: Landscape

A landscape plan has been provided by PAA Design. A landscaped area along the north boundary towards the centre of the site is proposed, with an area of about 12sqm. The Panel is in support of the location of the courtyard; however, the size of the courtyard does not provide appropriate amenity as configured.

A setback to Bell Lane was suggested in the Pre-DA comments to accommodate landscaping at that location. The Panel understands that the new plan that incorporates parking and simplified stair configuration that does not leave adequate space for a significant setback for landscape. This is considered acceptable and also assists with the need to avoid deep recessed areas in the laneway for safety reasons.

Principle 6: Amenity

The boarding rooms offer mixed amenity. Internal rooms rely on the courtyard for light and air. Rooms facing the streets have balconies which will provide some relief from the density of this part of Randwick. The common area is well located along Belmore Road and the Panel notes the reinstatement of the original balcony at this location, however it will not receive adequate sunlight due to the orientation of the building's western façade.

While rationalisation has taken place with the revised design of the courtyard, it lacks amenity in the form of sunlight and places to sit. A significant portion of this space is taken up by circulation along the stair and almost no light reaches the courtyard at winter solstice. A primary objective of private open space for boarding houses is to provide access to social opportunities and sunlight.

The courtyard in its present configuration does not achieve these objectives. A grilled door on the ground level corridor from Bell Lane to the courtyard was proposed in the previous scheme and should be retained. This would allow natural air flow through the courtyard and avoid it becoming a heat trap on hot summer days. The amenity for residents needs to be improved. This could be achieved by enlarging the courtyard or providing some roof top open space.

The balcony on Belmore Road, while providing amenity for the common room, does not generally meet the minimum 3m width and receives poor sunlight.

Principle 7: Safety

The configuration of the entrance along Bell Lane provides some recessed space. Given the relatively isolated and dead-end configuration of Bell Lane it is important that no concealed spaces are created. Mitigation measures, such as a mirrored surface, should be considered. The proposed resident's entry through a car space garage should be revised so that residential circulation is separated from vehicle parking.

Principle 8: Housing Diversity and Social Interaction

This is a convenient and attractive location with good services and is suitable for residential boarding house accommodation. This will bring additional life into the area after hours.

Principle 9: Aesthetics

The Panel supports the minimalist approach to materiality and form as demonstrated with the scheme. A distinctive façade treatment between the Level 2 Façade and the existing Belmore Road façade is proposed. The reinstatement of the balcony at Level 1 on Belmore Road is supported.

SUMMARY AND RECOMMENDATIONS

The proposal submitted is an appropriate transformation of the site in this location and the Panel is generally supportive of the scheme with some modifications.

Improving amenity for residents in this densely developed part of Randwick is an important consideration. To comply with the height limit, and provide improved access to light and air, an option may be the removal of the front room on Level 3 and replacing it with a terrace that can serve as private open space. This would improve compliance with both the height limit and private open space requirements.

Parking requirements have not been met as no motorcycle spaces have been provided and there is an under provision of car spaces. The Panel notes, however, the over provision of bicycle spaces. The site is within 500m of a light rail station and the proponent will need to make a case for this situation.

3. Environmental Health Officer

Proposed Development:

Council is in receipt of an application to undertake alterations to an existing residential dwelling to a four storey mixed use development with a restaurant on the ground floor and 11 boarding house rooms, 1 communal kitchen/lounge area, 1 communal laundry and 1 communal open space. There will also be 16 bicycle parking spaces and 1 car parking space at the rear of the premises. The development is proposed for 23 Belmore Road, Randwick.

Food Safety

The Environmental Health Team have raised concerns in relation to the lack of space allocated to the food premises on the ground floor. After reviewing the floor plan for the restaurant it appears that insufficient space for food preparation and food storage relevant to number of seats in the restaurant (dry food storage, cool room, utensils etc) have been allocated to the food premises and is not likely to comply with the relevant Australian Standards.

The fit-out of the food premises must be constructed to ensure the premises can be kept in a clean and sanitary condition, has sufficient preparation space to prevent the likelihood of food being contaminated (such as separated wash up area away from preparation area) and sufficient storage space for utensils and equipment, dry food and food to be stored in refrigerators/cool room and freezers.

A detailed floor plan for the food premises that includes additional or sufficient space for separated food storages areas, food preparation areas, wash up areas and details of the mechanical duct work and air discharge points should be provided to Council for assessment.

Noise concerns

An acoustic assessment prepared by Acoustic Logic (Document Reference 20190354.1/1104A/R0/WY) dated 11 April 2019 states that no detailed plant selection and location has been undertaken, making it difficult to demonstrate compliance will be achieved for noise and environmental performance.

In addition, the acoustic report states rooms at the western external façade facing Belmore Road, will not be able to achieve required internal noise levels with windows or doors open.

The proposed development also consists of a restaurant on the ground floor and potential noise nuisance from the use and operation of the restaurant has not been included in the acoustic report

In order to assess the existing and potential noise sources and emissions from the proposed development, and potential impact upon the amenity of the locality, an amended Acoustic Report should be provided to Council for assessment.

Plan of Management

A Plan of Management was submitted with the application which outlines some management procedures to address noise and operations concerns of the development. However the Plan of Management does not adequately address noise issues that may arise from activities from the premises.

A revised Plan of Management is required to be prepared and reviewed by the acoustic consultant to ensure the operation of the premises (including the food premises) does not adversely impact the amenity of the surrounding environment.

Assessing Officer's Comment: It is noted that as part of the applicant's response to additional information, details regarding food safety for the restaurant were not provided and therefore, these concerns remain relevant. An updated acoustic report and revised POM were submitted in support of the amended proposal, however as the revised architectural drawings were not accepted for detailed assessment based on planning concerns, a new referral to Environmental Health was not issued.

4. Building Surveyor

Proposed Development:

Redevelopment of site including retention of ground floor restaurant and front 2 storeys of building with three levels of boarding house.

Comments:

- *Rise of storeys – 4*
- *Classification – Ground floor – Class 6 – restaurant*
- *First floor – Class 3 – place of shared accommodation*
- *Second floor – Class 3 – place of shared accommodation*
- *Third floor – Class 3 – place of shared accommodation*

Type A construction.

Prior to determination of the development application, further information is required to be provided to Council to assess the suitability of the proposed levels of fire and safety within the development, in accordance with the provisions of clause 93 and 94 of the Environmental Planning and Assessment Regulation 2000.

Assessing Officer's Comment: It is noted that as part of the applicant's response to additional information, details regarding fire safety compliance was not provided and therefore, these concerns remain relevant.

5. Development Engineer

An application has been received the redevelopment of the site including retention of ground level restaurant and front 2 storeys of building, with three level boarding house above comprising 11 boarding rooms, communal room and balcony, 1 carspace, 16 bicycle spaces, garbage storage and associated works (Variation to height control)(Heritage Conservation Area) at the above site.

This report is based on the following plans and documentation:

- *Architectural Plans by Jackson Teece Architects, issue 1, dated 15/04/2019;*
- *Statement of Environmental Effects by Genevieve Slattery Urban Planning dated 11th June 2019;*
- *Detail & Level Survey by Project Surveyors Rev B dated 7/02/2019;*
- *Landscape Plan by PAA Design, dwg DA01, issue A, dated 26/03/19.*

PARKING COMMENTS

Summary

If adopting the applicable SEPP Parking rate of 1 space per 2 rooms, the proposed boarding house will increase the parking shortfall on the site by approximately 4 spaces.

In reality however the parking demand is not expected to change significantly from the existing situation given the low number of boarding house rooms, the sites location within Randwick town centre and the plethora of alternative forms of transport available. The site is very well situated to reduce dependence on a motor vehicle.

Insisting on the provision of additional parking in this instance would not be in the public interest given the additional risks to pedestrians on Belmore Road/Bell lane and within the site itself. The site is extremely constrained making the provision of any additional parking difficult to achieve while also maintaining satisfactory clearances and accessibility. This would be true for any redevelopment of the site.

In the absence of any other planning issues it would be difficult to justify refusal of this application based purely on the variation to the SEPP parking rate in this instance.

The provision of 1 motorbike space may be possible if the rear of the development is reconfigured and Development Engineering would prefer to see this explored further before supporting the Clause 4.6 variation.

More detailed parking comments are provided below.

PARKING PROVISION - CURRENT SITUATION

Parking Requirements for the existing development have been assessed as per the following applicable parking rates specified in Part B7 of Randwick Council's Development Control Plan 2013.

- Restaurants - 1 space per 40m² for first 80m² then 1 space per 20m² thereafter
- Residential - 1.2 spaces per 2 bedroom unit

The site currently contains a 2 storey building which accommodates a restaurant with storage and 1 parking space at the rear in a garage with a residential development above on Level 1 containing a 2 bedroom unit.

The existing restaurant has a floor area of approximately 104m² including the storage area, kitchen and toilet at the rear. Adopting the DCP rate above would result in a parking generation of 3.2 spaces for the restaurant.

The residential dwelling above comprises of a 2 bedroom unit generating a demand of 1.2 spaces under the DCP. Hence:

EXISTING PARKING DEMAND UNDER DCP = 3.2 (Restaurant) + 1.2 (unit)
= 4.4 spaces

EXISTING PARKING PROVIDED = 1 space within rear garage

EXISTING PARKING SHORTFALL = 3.4 SPACES

This may be considered as a parking credit for the proposed development.

PARKING PROVISION - PROPOSED DEVELOPMNENT

The proposed development retains the existing restaurant (although with a smaller overall area) and replaces the dwelling above with an 11 room boarding house over 3 levels.

Under Council's DCP the parking demand for the restaurant would decrease slightly due to the decrease in floor area which would now be approximately 80m² thereby decreasing the parking demand to about 2 spaces.

Parking Requirements for boarding houses are initially guided by the parking rates specified in the SEPP Affordable Housing which specifies a 'do not refuse' standard parking rate for boarding houses (not being made by a social housing provider) of 0.5 spaces per room.

As the proposed boarding house comprises of 11 room this suggests a required parking provision of 5.5 spaces (but see discussion below)

Hence

*TOTAL PARKING REQUIRED = 2 (restaurant) + 5.5 (Boarding house)
= 7.5 spaces*

PARKING PROVIDED = 1 space (accessed from Bell Lane) for the tenancy.

PROPOSED PARKING SHORTFALL = 6.5 spaces

If applying the existing shortfall of 3.4 spaces as a parking credit

*REVISED PARKING REQUIRED = 7.5 – 3.4
= 4.1 spaces*

PARKING PROVIDED = 1 space

REVISED PARKING SHORTFALL = 3.1 spaces

Note that this is the additional increase in the parking shortfall created by the proposed development (i.e. from 3.4 to 7.5 spaces). See discussion below

Motorbike & Bicycle Parking

The Affordable Housing SEPP states in regulation 30(h) that consent authorities must not consent to development unless at least one parking space is provided for a bicycle and one for a motorcycle for every 5 boarding rooms.

As the number of boarding rooms is 11 this will require the provision of 2 bicycle and 2 motorbike spaces.

The submitted plans demonstrate an over-compliance with the bicycle parking with 16 spaces provided but have not provided any motorbike parking. A Clause 4.6 variation has been submitted in support of the variation outlining the following justification

- *There is an oversupply of bicycle parking*
- *Safety issues with pedestrians and car driver at the rear of the site*
- *The site is within 500m of 2 light rail stations*
- *The site is located immediately adjacent to bus services on Belmore Road and Alison road.*
- *There are recognized cycle way in close proximity.*
- *The site is well serviced by carshare pods*
- *The site is situated within Randwick town Centre*

DISCUSSION ON PARKING SHORTFALL

It is acknowledged that there is an argument to be made for a reduction in the parking provision given the sites location in Randwick Town centre and readily available access to alternative forms of transport. Council does have the discretion to vary the parking requirements under Section 29(4) of the SEPP Affordable Housing.

Providing a fully parking compliant development based on the SEPP parking rate would be virtually impossible to achieve given the sites' constraints. The site is less than 5.4m wide and so could not even provide 2 carspaces side by side. Providing additional parking would also create additional issues for pedestrian safety by creating additional traffic in Bell Lane which then exits onto Belmore Road where a very high amount of pedestrian traffic is evident. The site is very well situated to reduce dependence on a motor vehicle.

Notwithstanding the departure sought by the applicant from the expected parking provision is significant and the applicant has not submitted a detailed Traffic and Parking assessment by a traffic consultant and has instead addressed the issue within the main body of the Statement of Environment Effects and the clause 4.6 variation in the case of the motorbike parking.

Upon assessment it is considered the parking demand is not expected to change significantly from the existing situation given the low number of boarding house rooms, the sites location within Randwick town centre and the plethora of alternative forms of transport available. The site is very well situated to reduce dependence on a motor vehicle and is likely to attract residents who don't have access to a motorvehicle.

It is the view of Development Engineering that insisting on the provision of additional parking in this instance would not be in the public interest given the additional risks to pedestrians on Belmore Road/Bell lane and within the site itself. The site is extremely constrained making the provision of any additional parking difficult to achieve for any form of redevelopment

In the absence of any other planning issues it would therefore be difficult to justify refusal of this application based purely on the variation to the SEPP parking rate in this instance.

Should the assessing officer consider approving the application, Development Engineering would recommend the allocation of the single space to the retail component for deliveries and/or manager, hence there is little need to provide an accessible carspace. It is recommended this be changed to a normal commercial space.

CLAUSE 4.6 VARIATION for MOTORBIKEPARKING

The Clause 4.6 variation to remove the motorbike parking requirement has also been considered and for similar reasons for the lack of vehicle parking it is considered enforcing the requirement for the 2 spaces could result in issues with pedestrian safety and accessibility within the site and in this instance. Notwithstanding the provision of 1 motorbike space may be possible if the rear is reconfigured and Development Engineering would like to see this explored further before supporting the Clause 4.6 variation.

The provision of bicycle parking for at least every resident is supported as compensation.

WASTE MANAGEMENT COMMENTS

Comments on the number of Waste Bins

Council's Waste Management Guidelines specifies a waste generation rate for boardinh houses of 9L/occupant/day for garabage plus 3L/occupant/day for recycling

Normal Waste generated (weekly collection) = 9 x 11 x 7 = 693L

No of standard 240L bins required = 693/240 = 2.9 = say 3 bins

Recycled Waste generated (fortnightly collection) = 3 x 11 x 14 = 462L

No of standard 240L bins required = 462/240 = 1.9 = say 2 bins

Hence a total of 5 x 240L bins will be required. The waste bin area for the boarding house only indicates 4 x 240L bins and so is slightly undersized. As the non-compliance is minor it is considered this can be addressed by condition.

Tree & Landscape Comments

There is no vegetation within the subject site at all, with conditions allowing the selective clearance pruning of the western aspect of the mature Tallowood, which is located on higher ground to the east, on the other side of Bell Lane, on another private property, only where it overhangs the roadway and is required so as to facilitate truck and machinery access, deliveries and similar, and should only be a minimal amount (if at all), given the height that its crown is already held above the road surface.

A Landscape Plan has been submitted showing a podium planter and landscaping along the eastern edge of Level 1, with a soil depth of 600mm to be provided (RL72430 - RL71830), which is sufficient to sustain the species selected, so conditions require its full implementation.

Assessing Officer's Comment: Although Development Engineering's support for the car parking shortfall is acknowledged, the shortfall is not supported on a planning basis. Council has consistently upheld the parking rate applicable to boarding houses, and in this case the shortfall is considered too excessive to support. The preference is amalgamation of adjoining properties to allow a more usable development area and a more skillful planning outcome. An amalgamated site area would also limit the amount of vehicle entrances off Bell Lane, which will allow future activation of the laneway that according to Council's Strategic Planning Department will be reflected in future controls.

Appendix 2: Applicant's written request seeking to justify the contravention of the height of buildings and required number of motorcycle spaces development standards

1. Written request to justify the height of buildings development standard

REQUEST PURSUANT TO CLAUSE 4.6, FOR EXCEPTION TO COMPLIANCE WITH CLAUSE 4.3(2) OF RANDWICK LOCAL ENVIRONMENTAL PLAN 2012

This Clause 4.6 Exception Submission has been prepared by Genevieve Slattery Urban Planning Pty Ltd on behalf of Mr. Alan Lee (the owner & Applicant), in relation to a Development Application for the property at No. 23 Belmore Road, Randwick (the site).

This Submission is made to Randwick City Council in support of Development Application (DA) which seeks consent for substantial alterations to the existing shoptop housing building and change of use to a mixed-use development containing a restaurant and eleven (11) boarding house rooms.

This request has been prepared having regard to:

- Land and Environment Court of NSW judgment in Winten Property v North Sydney Council [2001];
- Land and Environment Court of NSW judgment in Wehbe v Pittwater Council [2007];
- NSW Department of Planning and Infrastructure's Varying Development Standards: A Guide 2015; and
- Land and Environment Court of NSW judgment in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.

It is noted that legal advice has been obtained, to the effect that a Clause 4.6 variation is not required to vary the building height development standard at Clause 4.3(2) of RLEP 2012 as Clause 29 of the AHSEPP prevails over the LEP and Clause 29(2)(a) is not a development standard. Notwithstanding, for abundant caution and to assist Council in assessing the merits of the proposal, this Clause 4.6 variation request accompanies the proposed DA.

1.0 WHAT IS THE CLAUSE SOUGHT TO BE VARIED?

1.1 Clause 4.3(2) of Randwick Local Environmental Plan 2012 (RLEP 2012)

Clause 29(2)(a) of State Environmental Planning Policy (Affordable Rental Housing) 2009 states that:

“(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:

*(a) **building height***

if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,"

Clause 4.3(2) of RLEP 2012 states the following:

"The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map."

The Height of Buildings Map indicates a maximum building height of 12m at the site.

1.2 What is the extent of the non-compliance?

The proposed development has the following heights:

- 13.48m – 13.59m to the front addition at Level 3; and
- 12.3m to the front addition at Level 3.

The proposed non-compliance at the rear building occurs largely as a result of the topography of the site, and is 300mm or 2.5%.

The proposed front building displays a non-compliance of between 1.48m (12.3%) and 1.359m (13.25%).

2.0 CLAUSE 4.6 OBJECTIVES

Clause 4.6 of Randwick Local Environmental Plan 2012 (RLEP 2012) has the following objectives:

- (a) *"to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances."*

As discussed below, it is considered appropriate to invoke the provisions of Clause 4.6 of RLEP 2012, in order to achieve a positive planning outcome at the site.

3.0 CLAUSE 4.6(3) PROVISIONS

Clause 4.6(3) states that development consent must not be granted for development that contravenes a Development Standard unless the consent authority has considered a written request from the Applicant that seeks to justify the contravention of the development standard by demonstrating the following:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The following discussion constitutes a written request seeking to justify the contravention of Clause 30(1)(h) of ARHSEPP.

4.0 CLAUSE 4.6(3)(a) - IS COMPLIANCE WITH THE STANDARD UNREASONABLE AND UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

4.1 Clause 4.3 Objectives

The objectives of Clause 4.3 of RLEP 2012 are as follows:

- (a) *"to ensure that the size and scale of development is compatible with the desired future character of the locality,*
- (b) *to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,*
- (c) *to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views."*

(a) to ensure that the size and scale of development is compatible with the desired future character of the locality

The scale of the proposed development when viewed from most locations on Belmore Road will be as per the existing situation (see **Figures 1** and **2** below).



Figure 1: Existing and proposed views of the site, looking south east from Belmore Road, showing the minimal visual impact arising from the proposed additions



Figure 2: Existing and proposed views of the site, looking north east from Belmore Road, showing the minimal visual impact arising from the proposed additions

The proposed upper level, which is setback 8.8m from the front boundary does not dominate sightlines, with the existing parapet remaining the main element visible from the public domain. Level 2 at the front of the site complies with the maximum 12m height standard.

The scale of the proposed development to Bell Lane is only marginally higher than permitted, with the non-compliance occurring as a result of the topography of the site, which slopes up from front to rear, and the desire to provide at-grade car parking which avoids the need for excavation.

The proposal has an apparent two (2) storey scale to Belmore Road, which is consistent with that of the existing development. The upper levels are setback sufficiently, and in the event that the adjoining property to the north at No. 25 Belmore Road were developed to its theoretical maximum, which would likely include an additional upper level/s, the views of the site from the north would be largely obscured.

Having regard to the above, the proposal is considered to meet objective (a) despite the non-compliance with Clause 4.3(2) of RLEP 2012.

(b) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,

Section D3 of Randwick Development Control Plan 2013 relates to Randwick Junction and Section 4 contains the following comments in relation to development affecting Heritage Items and Contributory Buildings:

"Contributory buildings should be retained. Original fabric should be conserved, new work should be sensitive, and neighbouring development should be sympathetic to their character. "Facadism" (the retention of only the outer skin of a building) is not acceptable as suitable conservation practice."

Having regard to this DCP control, the proposal is considered acceptable. The proposed new development is sensitive to the existing significant fabric which is proposed to be retained and restored, and neighbouring development, in terms of form and scale. In this regard, it is considered that the proposal is consistent with the desired future character of the locality, despite the non-compliance.

The adjoining building to the south comprises two (2) storeys, within what is essentially a three (3) storey scale, due to its generous parapet. The proposed development maintains the existing matching parapet which ties in appropriately with the parapets of the nearby buildings.

The setting back of the upper level ensures that the parapets are the dominant visual element in the streetscape, and that the upper level does not detract from this characteristic.

Having regard to the above, the proposal is considered to meet objective (b) despite the non-compliance with Clause 4.3(2) of RLEP 2012.

(c) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views

The proposal does not unreasonably impact on the amenity of adjoining and neighbouring land, in terms of visual bulk, loss of privacy, overshadowing and views.

The proposal does not create any significant or unreasonable visual bulk as can be seen in **Figures 1** and **2** above.

Furthermore, the proposed upper level is situated so as to minimise its visibility from the rear yards of neighbouring properties.

The proposed upper levels have been designed to minimise opportunities for overlooking of neighbouring properties.

Detailed shadow diagrams have been prepared, showing the impacts of the proposal on neighbouring properties. It is considered that requiring the proposal to comply with the maximum 12m building height Standard, would have no material benefit in terms of improving solar access to nearby properties.

There are no known views or vistas which will be affected by the proposal.

Having regard to the above, the proposal is considered to meet objective (c) despite the non-compliance with Clause 4.3(2) of RLEP 2012.

4.2 B2 Local Centre zone objectives

The site is located within the B2 Local Centre zone, pursuant to RLEP 2012. The objectives of the B2 zone are as follows:

- *"To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To enable residential development that is well-integrated with, and supports the primary business function of, the zone.*
- *To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community.*
- *To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.*
- *To facilitate a safe public domain."*

The following discussion addresses the consistency of the proposal with the zone objectives.

To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.

The proposal incorporates a boarding house and restaurant, which will cater to the demands of the local population. The proposal will result in additional affordable accommodation within the immediate vicinity of a range of services and infrastructure and ensure that local workers are able to reside within close proximity of their places of work.

To encourage employment opportunities in accessible locations.

The proposal will maintain a commercial use at the site (i.e. a restaurant), thereby ensuring ongoing employment opportunities in this highly accessible location.

To maximise public transport patronage and encourage walking and cycling.

The proposal incorporates sixteen (16) bicycle parking racks, thereby encouraging future occupants to cycle or walk, rather than drive. Furthermore, bus stops are located immediately adjacent to the site's front boundary, ensuring convenience for future occupants. In addition, the site is located within approximately 500m of light rail stops on Alison Road and High Street.

Given the location of the site, in close proximity to a range of services, infrastructure and places of education and employment, it is likely that the majority of future occupants will walk or ride between the site and their local destinations, rather than travel by private motor vehicle.

To enable residential development that is well-integrated with, and supports the primary business function of, the zone.

The proposal incorporates boarding house accommodation which will support the primary commercial function of the development and its location within the commercial centre. The proposal will also introduce a new residential population to support other businesses in the locality.

To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community.

The proposal incorporates high quality architecture and urban design. The quality and design will ensure that the proposed development contributes to the amenity of the local streetscape and pedestrian amenity will be maintained, with the proposed retention of the existing ground and first floor façade.

To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.

The proposal does not unreasonably impact on the amenity of adjoining and neighbouring land, in terms of visual bulk, loss of privacy, overshadowing and views. The proposal does not create any significant or unreasonable visual bulk as can be seen in **Figures 1** and **2** above. Furthermore, the proposed upper level is situated so as to minimise its visibility from the rear yards of neighbouring properties.

The proposed upper levels have been designed to minimise opportunities for overlooking of neighbouring properties. Detailed shadow diagrams have been prepared, showing the impacts of the proposal on neighbouring properties. It is considered that requiring the proposal to comply with the maximum 12m building height Standard, would have no material benefit in terms of improving solar access to nearby properties.

There are no known views or vistas which will be affected by the proposal.

The proposal will have no significant or unreasonable amenity impacts in relation to nearby residents.

To facilitate a safe public domain.

The proposal will rejuvenate the site and introduce a new population to the locality. This will ensure that passive surveillance over the public domain in the vicinity of the site occurs, thereby adding to the safety and security of the public domain.

To this end, the proposal is consistent with the objectives of the zone despite the non-compliance with the building height development standard.

4.3 Would the underlying object or purpose of the standard be defeated or thwarted if compliance was required, such that compliance is unreasonable or unnecessary?

It is not considered that the underlying objective of the Standard is irrelevant to the proposal, however, as demonstrated herein, it is submitted that the proposal is able to achieve consistency with the intent of the Standard, despite the non-compliance.

4.4 Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable?

It is not considered that the Standard has been virtually abandoned or destroyed by Council's actions, however, having regard to the particulars of this Application, it is considered that flexibility in the application of the Standard is warranted.

While not demonstrating abandonment, it is noted that DAs in the locality have been approved with height in excess of 12m (i.e. Nos. 12-14 Belmore Road).

4.5 Is compliance with development standard unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land? That is, the particular parcel of land should not have been included in the zone?

The requirement to retain the front portion of the site, which has higher floor to ceiling heights than would be adopted in a new development contribute to the proposed non-compliance in the front building.

The topography at the rear of the site and the requirement to align with the Bell Lane level, for pedestrian and vehicular access, contribute to the proposed non-compliance at the rear of the site.

5.0 CLAUSE 4.6(3)(b) - ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?

5.1 What is the aspect or feature of the development that contravenes the development standard?

As discussed previously, the proposed roof elements contravene the development standard.

5.2 Why is contravention of the development standard acceptable?

Contravention of the development standard is considered acceptable for the following reasons:

- the proposed non-compliance does not result in significant adverse visual amenity impacts as the non-compliant elements are well setback from the Belmore Road frontage;
- the proposed non-compliance will not significant additional overshadowing impacts when compared to a compliant scheme;
- the proposed non-compliance at the front of the site allows the significant building elements to be retained, while allowing new development above with acceptable floor to ceiling heights; and
- the proposed non-compliance at the rear of the site allows the development to relate to Bell lane at ground floor level for access purposes, while allowing new development above, with compliant floor to ceiling heights.

As discussed above it is considered that strict compliance, in this particular case, would result in an inflexible application of policy given the capacity of the site to provide improved affordable residential accommodation in an appropriate location, whilst protecting streetscape character. Strict compliance, in this particular case, does not serve any purpose that should outweigh the positive outcomes of the development with respect to affordable housing provision in a heritage context. The proposed development is consistent with the provisions of orderly and economic development.

It is considered that on the basis that the proposal meets the intent of the development standard and zone despite the non-compliance, and having regard to the lack of adverse amenity impacts, it is considered that the non-compliance is acceptable

5.3 On what basis there are sufficient environmental planning grounds to justify contravening the development standard?

5.3.1 Clause 4.6(5)(A) - Matters of State or Regional Environmental Planning

The proposed contravention of the Standard does not raise any matter of significance for State or regional environmental planning.

5.3.2 Clause 4.6(5)(B) - The Public Interest

Having regard to the acceptable environmental impacts, and the merits of the proposed development, it is considered that the public interest is being met by the proposed development, despite the non-compliance.

The proposed departure from the standard does not create any unreasonable adverse amenity, as discussed herein. Furthermore, the proposal is considered to meet the public interest, as it will allow the retention and restoration of significant fabric along with new development which will have a positive streetscape outcome.

5.3.3 Clause 4.6(5)(C) – Any Other Matters Required To Be Considered

There are no other known matters required to be taken into consideration by the Director-General before granting concurrence.

As can be seen from the discussion herein, the proposed development is consistent with the underlying intent of the development standard and B2 Local Centre zone pursuant to RLEP 2012 despite the non-compliance with the motorcycle parking development standard.

It is considered that the proposal has adequately addressed the matters outlined in Section 4.6(3) – (5) of RLEP 2012.

6.0 CONCLUSION

Having regard to the discussion contained herein, it is considered that the matters required to be addressed, pursuant to Clause 4.6 of RLEP 2012, the five-part test established in the Land and Environment Court and the Varying Development Standards: A Guide, have been fully canvassed herein.

Having regard to the particulars of the proposal, as outlined above, it is considered that there would be no material benefit to requiring the proposal to comply with Clause 4.3(2) of RLEP 2012 and on this basis, an exception to the clause is considered well-founded, and worthy of support.

2. Written request to justify the required number of motorcycle spaces standard

REQUEST PURSUANT TO CLAUSE 4.6, FOR EXCEPTION TO COMPLIANCE WITH CLAUSE 30(1)(H) OF STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009

This Clause 4.6 Exception Submission has been prepared by Genevieve Slattery Urban Planning Pty Ltd on behalf of Mr. Alan Lee (the owner & Applicant), in relation to a Development Application for the property at No. 23 Belmore Road, Randwick (the site).

This Submission is made to Randwick City Council in support of Development Application (DA) which seeks consent for substantial alterations to the existing shoptop housing building and change of use to a mixed-use development containing a restaurant and eleven (11) boarding house rooms.

This request has been prepared having regard to:

- Land and Environment Court of NSW judgment in Winten Property v North Sydney Council [2001];
- Land and Environment Court of NSW judgment in Wehbe v Pittwater Council [2007];
- NSW Department of Planning and Infrastructure's Varying Development Standards: A Guide 2015; and
- Land and Environment Court of NSW judgment in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.

1.0 WHAT IS THE CLAUSE SOUGHT TO BE VARIED?

1.1 Clause 30(1)(h) of State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)

Clause 30(1)(h) of the ARHSEPP states that (our emphasis added):

- (1) *"A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:*
- (a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,*
 - (b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,*
 - (c) no boarding room will be occupied by more than 2 adult lodgers,*

- (d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,
- (e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,
- (f) (Repealed)
- (g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,
- (h) at least one parking space will be provided for a bicycle, and **one will be provided for a motorcycle, for every 5 boarding rooms."**

1.2 What is the extent of the non-compliance?

The proposed development incorporates eleven (11) boarding house rooms and pursuant to Clause 30(1)(h), is required to provide 2.2 (or 2) motorcycle parking spaces.

The proposal does not provide any motorcycle parking spaces and is therefore deficient by two (2) spaces or 100%.

2.0 CLAUSE 4.6 OBJECTIVES

Clause 4.6 of Randwick Local Environmental Plan 2012 (RLEP 2012) has the following objectives:

- (a) *"to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances."*

As discussed below, it is considered appropriate to invoke the provisions of Clause 4.6 of RLEP 2012, in order to achieve a positive planning outcome at the site.

3.0 CLAUSE 4.6(3) PROVISIONS

Clause 4.6(3) states that development consent must not be granted for development that contravenes a Development Standard unless the consent authority has considered a written request from the Applicant that seeks to justify the contravention of the development standard by demonstrating the following:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The following discussion constitutes a written request seeking to justify the contravention of Clause 30(1)(h) of ARHSEPP.

4.0 CLAUSE 4.6(3)(a) - IS COMPLIANCE WITH THE STANDARD UNREASONABLE AND UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

4.1 Clause 30(h)(1) Objectives

There are no specific objectives contained in ARHSEPP pertaining to Clause 30. However, the aims of the ARHSEPP are as follows:

- (a) "to provide a consistent planning regime for the provision of affordable rental housing,*
- (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,*
- (c) to facilitate the retention and mitigate the loss of existing affordable rental housing,*
- (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,*
- (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,*
- (f) to support local business centres by providing affordable rental housing for workers close to places of work,*
- (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation."*

Despite the lack of motorcycle parking, the proposal is considered to achieve consistency with the above objectives, as follows:

- the proposal seeks to deliver new affordable housing in a boarding house as part of a mixed-use building (objectives a and b);
- the proposal does not involve the loss of any existing affordable rental accommodation subject to the provisions of ARHSEPP (objectives c and d);
- objective e is not applicable to this DA;
- the proposal provides eleven (11) boarding house rooms, capable of accommodating up to sixteen (16) persons. The rooms will provide affordable rental accommodation for these persons in close proximity to local places of employment (e.g. UNSW, Prince of Wales Hospital), places of education (e.g. Randwick TAFE, UNSW) and nearby businesses (objective f); and
- objective g is not strictly applicable to this DA.

While the proposal does not provide motorcycle parking spaces, the proposed development is consistent with the objectives of the AHSEPP as it seeks to improve affordable housing outcomes for Randwick to meet

anticipated development needs for the foreseeable future and provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure.

Furthermore, the proposal incorporates the oversupply of bicycle parking so as to ensure that future occupants are able to travel to and from the site by means other than motorcycle or car.

Motorcycle parking is, furthermore, not considered warranted in the circumstances of this case as:

- provision of motorcycle parking within the rear of the site would raise safety issues associated with pedestrians, motorcyclists and a car driver within the confined rear entry area to the site;
- the site is within an accessible area, being:
 - approximately 500m walking distance of two (2) light rail stations (i.e. on Alison Road and High Street);
 - within the immediate vicinity of bus stops on Belmore Road and Alison Road, providing access to numerous bus routes serving a range of destinations;
 - within the immediate vicinity of cycle routes marked throughout the area;
- the site is well serviced by various car share pods; and
- the site is within the Randwick Junction Town Centre, where a range of services and infrastructure is provided.

On the basis of the discussion above, the proposal is considered to achieve consistency with the objectives of ARHSEPP despite the non-compliance with Clause 30(1)(h) of the Policy.

4.2 B2 Local Centre zone objectives

The site is located within the B2 Local Centre zone, pursuant to RLEP 2012. The objectives of the B2 zone are as follows:

- *"To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To enable residential development that is well-integrated with, and supports the primary business function of, the zone.*
- *To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community.*
- *To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.*
- *To facilitate a safe public domain."*

The following discussion addresses the consistency of the proposal with the zone objectives.

To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.

The proposal incorporates a boarding house and restaurant, which will cater to the demands of the local population. The proposal will result in additional affordable accommodation within the immediate vicinity of a range of services and infrastructure and ensure that local workers are able to reside within close proximity of their places of work.

To encourage employment opportunities in accessible locations.

The proposal will maintain a commercial use at the site (i.e. a restaurant), thereby ensuring ongoing employment opportunities in this highly accessible location.

To maximise public transport patronage and encourage walking and cycling.

The proposal incorporates sixteen (16) bicycle parking racks, thereby encouraging future occupants to cycle or walk, rather than drive. Furthermore, bus stops are located immediately adjacent to the site's front boundary, ensuring convenience for future occupants. In addition, the site is located within approximately 500m of light rail stops on Alison Road and High Street.

Given the location of the site, in close proximity to a range of services, infrastructure and places of education and employment, it is likely that the majority of future occupants will walk or ride between the site and their local destinations, rather than travel by motorcycle.

To enable residential development that is well-integrated with, and supports the primary business function of, the zone.

The proposal incorporates boarding house accommodation which will support the primary commercial function of the development and its location within the commercial centre. The proposal will also introduce a new residential population to support other businesses in the locality.

To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community.

The proposal incorporates high quality architecture and urban design. The quality and design will ensure that the proposed development contributes to the amenity of the local streetscape and pedestrian amenity will be maintained, with the proposed retention of the existing ground and first floor façade. The lack of motorcycle parking will have no adverse impacts on the

quality of the development and will ensure that access within the rear of the site is safe for future occupants.

To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.

There is ample opportunity for two (2) motorcycles to be accommodated in public parking in the vicinity of the site, without adversely impacting on the availability of car parking. The proposal is not located in the vicinity of any residentially zoned land and will have no adverse impacts in this regard. The proposal will have no significant or unreasonable amenity impacts in relation to nearby residents.

To facilitate a safe public domain.

The proposal will rejuvenate the site and introduce a new population to the locality. This will ensure that passive surveillance over the public domain in the vicinity of the site occurs, thereby adding to the safety and security of the public domain.

To this end, the proposal is consistent with the objectives of the zone despite the non-compliance with the motorcycle parking development standard.

4.3 Would the underlying object or purpose of the standard be defeated or thwarted if compliance was required, such that compliance is unreasonable or unnecessary?

It is not considered that the underlying objective (which is not specified) of the Standard is irrelevant to the proposal, however, as demonstrated herein, it is submitted that the proposal is able to achieve consistency with the intent of the Standard, despite the non-compliance.

4.4 Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable?

It is not considered that the Standard has been virtually abandoned or destroyed by Council's actions, however, having regard to the particulars of this Application, and the amenity gains resulting from the non-compliance, it is considered that flexibility in the application of the Standard is warranted.

While not demonstrating abandonment, it is noted that DAs for other boarding houses in the locality have been approved without motorcycle parking (i.e. Nos. 12-14 Belmore Road).

4.5 Is compliance with development standard unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land? That is, the particular parcel of land should not have been included in the zone?

The site is narrow and the Applicant has made unsuccessful attempts to amalgamate with neighbouring landowners in order to achieve a larger development site. To this end, the site dimensions and the site's location within a Heritage Conservation Area are characteristics which would render compliance with the development standard unreasonable or inappropriate.

Compliance with the Standard could be achieved, however, given the desire to maintain an active street frontage within a heritage context, without introducing a new fire-rated stair from the Belmore Road frontage to the boarding house above, it is necessary to provide pedestrian access from the site's secondary frontage. The frontage is 5.955m wide and required to accommodate:

- vehicular access;
- pedestrian access;
- letterboxes; and
- fire booster assembly.

Furthermore, once inside the site, it is necessary to maintain disabled access as well as space for an accessible car park, without obstructing pedestrian circulation.

Once these requirements are accommodated, there is insufficient space to safely accommodate two (2) motorcycle parking spaces.

Thus, while compliance could be achieved, it is considered that the characteristics of the site are such that a better outcome is achieved in the absence of motorcycle parking.

5.0 CLAUSE 4.6(3)(b) - ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?

5.1 What is the aspect or feature of the development that contravenes the development standard?

As discussed previously, the lack of two (2) motorcycle parking spaces results in the contravention of the development standard.

5.2 Why is contravention of the development standard acceptable?

Contravention of the development standard is considered acceptable for the following reasons:

- the site is well-located in relation to public transport (buses and future light rail);
- the proposal provides an over-supply of bicycle parking;

- given the location of the site and proximity to nearby services, employment and infrastructure, it is likely that trips will be made on foot, by bike or public transport rather than by car or motorcycle; and
- the nominal two (2) motorcycle parking space deficiency is considered minor and able to be absorbed in the locality without having any noticeable impact on the availability of motorcycle parking.

As stated above, it is considered that the characteristics of the site are such that a better and safer outcome is achieved in the absence of motorcycle parking.

As discussed above it is considered that strict compliance, in this particular case, would result in an inflexible application of policy given the capacity of the site to provide improved affordable residential accommodation in an appropriate location, whilst protecting streetscape character. Strict compliance, in this particular case, does not serve any purpose that should outweigh the positive outcomes of the development with respect to affordable housing provision in a heritage context. The proposed development is consistent with the provisions of orderly and economic development.

It is considered that on the basis that the proposal meets the intent of the development standard and zone despite the non-compliance, and having regard to the amenity and safety benefits arising from the proposal, it is considered that the non-compliance is acceptable

5.3 On what basis there are sufficient environmental planning grounds to justify contravening the development standard?

5.3.1 Clause 4.6(5)(A) - Matters of State or Regional Environmental Planning

The proposed contravention of the Standard does not raise any matter of significance for State or regional environmental planning.

5.3.2 Clause 4.6(5)(B) - The Public Interest

Having regard to the acceptable environmental impacts, and the merits of the proposed development, it is considered that the public interest is being met by the proposed development, despite the non-compliance.

The proposed departure from the standard does not create any unreasonable adverse amenity, as discussed herein. Furthermore, the proposal is considered to meet the public interest, as it encourages future occupants to walk or cycle to and from the site rather than rely on private cars or motorcycles.

5.3.3 Clause 4.6(5)(C) – Any Other Matters Required To Be Considered

There are no other known matters required to be taken into consideration by the Director-General before granting concurrence.

As can be seen from the discussion herein, the proposed development is consistent with the underlying intent of the development standard and B2 Local Centre zone pursuant to RLEP 2012 despite the non-compliance with the motorcycle parking development standard.

It is considered that the proposal has adequately addressed the matters outlined in Section 4.6(3) – (5) of RLEP 2012.

6.0 CONCLUSION

Having regard to the discussion contained herein, it is considered that the matters required to be addressed, pursuant to Clause 4.6 of RLEP 2012, the five-part test established in the Land and Environment Court and the Varying Development Standards: A Guide, have been fully canvassed herein.

Having regard to the particulars of the proposal, as outlined above, it is considered that there would be no material benefit to requiring the proposal to comply with Clause 30(1)(h) of ARHSEPP and on this basis, an exception to the clause is considered well-founded, and worthy of support.

Appendix 3: ARH SEPP Compliance Table

Assessment of Clause 29 – Standards that cannot be used to refuse consent		
Standard	Proposed	Compliance
<p>(1) Floor Space ratio</p> <p>The density and scale of the buildings when expressed as a floor space ratio are not more than:</p> <p><i>(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or</i></p> <p><i>(b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or</i></p> <p><i>(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:</i></p> <p style="padding-left: 40px;"><i>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less.</i></p>	<p>The maximum FSR for the site is 2:1 pursuant to the RLEP. The bonus FSR pursuant to the ARH SEPP is not applicable in this case given a residential flat building is not permitted with consent on this site pursuant to Clause 6.14 of the RLEP. This is because the existing building was originally designed and constructed as shop top housing and was not originally designed or constructed for the purposes of a RFB.</p> <p>Based on Council's calculation that includes the enclosed first floor landscaped area and parts of the enclosed horizontal circulation, the proposed FSR is 2.3:1 (517.46m²).</p>	No
<p>(2) (a) Building height</p> <p><i>if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,</i></p>	<p>The maximum permitted building height is 12m.</p> <p>The maximum proposed building height is 14.04m measured from the eastern ridge (RL81.01) above existing ground level (RL66.97 being 300mm beneath existing slab).</p>	No
<p>(b) Landscaped area</p> <p><i>if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,</i></p>	No landscaping is proposed in the frontage, which is consistent with the business area that comprises buildings that are built to their respective front boundaries.	N/A
<p>(c) Solar access</p> <p><i>where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</i></p>	The west-facing, first floor communal living room will receive 1 hour solar access from 3pm until 4pm on 21 June.	No
<p>(d) Private open space</p> <p><i>if at least the following private open</i></p>	The communal open space adjacent to the communal living area is 8m ² .	No

Assessment of Clause 29 – Standards that cannot be used to refuse consent		
Standard	Proposed	Compliance
<p><i>space areas are provided (other than the front setback area):</i></p> <p><i>(i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,</i></p> <p><i>(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation,</i></p>		
<p>(e) Parking</p> <p><i>if:</i></p> <p><i>(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</i></p> <p><i>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</i></p> <p><i>(iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</i></p> <p><i>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</i></p>	<p>6 car parking spaces are required (0.5 parking spaces per boarding room). 1 accessible car parking space is provided. It is noted that a parking credit is applied based on the existing parking shortfall (refer to Development Engineer's referral comments in Appendix 1). However, the shortfall is exacerbated by the proposal and is not supported.</p>	No
<p>(f) Accommodation Size</p> <p><i>if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</i></p> <p><i>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</i></p> <p><i>(ii) 16 square metres in any other case.</i></p>	<p>6 x single rooms and 5 x double rooms are proposed. All of the rooms comply.</p>	Yes
<p>(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</p>	<p>All of the boarding rooms are provided with their own kitchen facilities, and 9 of the boarding rooms are provided with their own bathroom facilities with 2 boarding rooms provided with a</p>	Yes

Assessment of Clause 29 – Standards that cannot be used to refuse consent		
Standard	Proposed	Compliance
	communal bathroom.	

Assessment of Clause 30 - Standards for Boarding Houses		
Standard	Assessment	Compliance
<i>1 (a) if a boarding house has 5 or more boarding rooms, at least one (1) communal living room will be provided.</i>	11 boarding rooms are proposed and a communal living room is provided.	Yes
<i>(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres.</i>	No boarding room exceeds 25m ² .	Yes
<i>(c) no boarding room will be occupied by more than 2 adult lodgers.</i>	The largest proposed rooms are double rooms.	Yes
<i>(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger.</i>	Adequate facilities are provided.	Yes
<i>(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager.</i>	A maximum of 16 boarders will occupy the boarding house, therefore a boarding house manager is not required.	N/A
<i>(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use.</i>	The land is zoned B2 Local Centre. No part of the ground floor that fronts a street is proposed to be used for residential purposes. The vehicular and pedestrian access that fronts Bell Lane is necessary to serve the site based on current planning controls and this entrance is also utilised by the GF commercial tenancy.	Yes
<i>(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.</i>	2 motorcycle and 2 bicycle parking spaces are required. Nil motorcycle spaces are provided, which does not comply, and 16 bicycle spaces are provided, which does comply.	No motorcycle parking provided. Refer to Section 7 for assessment against clause 4.6 of the RLEP.

Assessment of Clause 30A - Character of the local area
<p>Clause 30A of the ARH SEPP states: <i>A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.</i></p> <p><u>Planning comment:</u> The proposal is not assessed as being in accordance with the character of the area and therefore consent cannot be granted. Refer to Section 9.1, Discussion of Key Issues.</p>

Appendix 4: DCP Compliance Table**C4 Table: Boarding Houses**

DCP Clause	Controls	Proposal	Compliance
2	Building Design		
2.1	<p>Boarding Rooms</p> <p>Note: Skylights or windows opening to an internal hallway or corridor cannot be used as the sole source for light and air circulation.</p> <p>i) Orientate to receive the maximum amount of sunlight;</p> <p>ii) Provide a balcony, terrace or window opening to outdoor areas for natural light and ventilation; and</p> <p>iii) Where provided, private open space in the form of a balcony or terrace must have a minimum useable area of 4 square metres.</p>	<p>The inward-facing boarding rooms and balconies are not orientated to receive maximum sunlight. In particular, the 4 x boarding rooms at levels 1 and 2. Based on comments from Council's DEP, it is unlikely that these rooms will receive adequate access to natural light and ventilation given the small size of the void. Where provided, these inward-facing balconies are less than 4m², with one provided at 1.6m².</p>	No
2.2	<p>Outdoor Communal Open Space</p> <p>i) Provide for all boarding houses, with a minimum total area of 20 square metres and a minimum dimension of 3 metres;</p> <p>ii) Provide at ground or podium level in the form of a courtyard or terrace area, accessible to all residents;</p> <p>iii) Locate and orientate to maximise solar access;</p> <p>iv) Incorporate both hard and soft landscaped areas;</p> <p>v) Provide shared facilities such as fixed outdoor seating benches, barbecues and the like to allow social interaction; and</p> <p>vi) Provide partial cover for weather protection, such as pergola, canopy or the like, where it does not cause unreasonable overshadowing on adjoining properties.</p>	<p>Outdoor communal open space is provided at Level 1 off the communal area and is 8m², with dimensions less than 3m. The west-facing communal open space is not orientated to receive maximum solar access, does not incorporate hard and soft landscaping or shared facilities.</p>	No

DCP Clause	Controls	Proposal	Compliance
2.3	<p>Indoor Communal Facilities</p> <p>NOTE: The calculation of indoor communal areas can include any dining area, but cannot include boarding rooms, kitchens, bathrooms, laundries, reception area, storage, parking, hallways, corridors and the like.</p> <p>i) Provide with a minimum dimension of 3 metres and a minimum total area of 20 square metres or 1.2 square metres/resident, whichever is greater; and</p> <p>ii) Orientate to maximise solar access and have a northerly aspect where possible.</p>	<p>Minimum required area = 20m².</p> <p>The communal room is provided at Level 1 and is 21m² excluding the kitchen and corridor.</p> <p>The west-facing communal room however receives limited solar access and will provide poor amenity.</p>	No.
2.4	<p>Communal Kitchen Bathroom and Laundry Facilities</p> <p>i) For all boarding houses, provide communal kitchen, bathroom and laundry facilities where they are easily accessible for all residents, unless these facilities are provided within each boarding room;</p> <p>ii) For development of over 12 boarding rooms without en suite bathrooms, provide separate bathroom facilities for male and female residents;</p> <p>iii) Locate and design any communal laundry room to minimise noise impact on boarding rooms and neighbouring properties; and</p> <p>iv) Where possible, locate clotheslines to maximise solar access while not compromising the street amenity or usability of communal open space.</p>	<p>The majority of boarding rooms are provided with individual facilities. 2 boarding rooms at level 3 are provided with a communal bathroom.</p> <p>Clotheslines are not needed given dryers are provided.</p>	Yes
2.5	<p>Safety and Crime Prevention</p> <p>i) Locate building entry points and internal entries to living areas where they are clearly visible from common spaces;</p> <p>ii) Locate a habitable living area (such as lounge room, kitchen, dining or bedroom) to allow general observation of the street</p>	<p>The entry to the boarding house is from Bell Lane through the car parking area. This entry is not visible from the communal room / open space but is adjacent to various common spaces (car and</p>	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>and communal open space;</p> <p>iii) Separate ground level private open space from public and common areas by measures such as open fencing or low level plants; and</p> <p>iv) Select trees and low-lying shrubs that do not interfere with sight lines nor provide opportunities for concealment or entrapment.</p>	<p>bicycle parking) that will be frequently used. The internal entry to the communal room / open space is visible from the common access.</p> <p>Habitable areas overlook both street frontages.</p> <p>No ground level open space is provided.</p> <p>No landscaping at the ground floor level is proposed nor able to be accommodated.</p>	
2.6	<p>Visual and Acoustic Amenity and Privacy</p> <p>i) Indicative locations of facilities and appliances for bathrooms, kitchens and laundries must be clearly shown on the DA plans/drawings;</p> <p>ii) Locate kitchen, dining room, lounge room and outdoor open space adjacent to or directly accessible from each other;</p> <p>iii) Locate similar uses (such as bedrooms or bathrooms) back to back, to minimise internal noise transmission;</p> <p>iv) Provide screen fencing, plantings and acoustic barriers where practicable to screen noise and reduce visual impacts;</p> <p>v) Where possible locate the main entry point at the front of the site, away from the side boundary and adjoining properties;</p> <p>vi) Locate communal open space, balconies and windows to bedrooms or communal areas, to minimise overlooking, privacy and acoustic impacts on adjoining properties;</p> <p>vii) An acoustic report prepared by a suitably qualified acoustic</p>	<p>Facilities and appliance locations are detailed.</p> <p>Communal open space is directly adjacent to the communal living room.</p> <p>Similar uses are located back to back.</p> <p>Communal areas are not expected to result in adverse acoustic impacts.</p> <p>The main entry to the boarding room is provided off Bell Lane, which given the constraints of the site and the existing ground floor restaurant, is the only practical location.</p> <p>The submitted acoustic report was assessed by Council's E&H Officer and was found to be inadequate (refer to Referrals section). Notwithstanding, it is considered that these concerns could be practically resolved</p>	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>consultant must be submitted for new development or conversions/intensifications with an increase in resident numbers. The report must:</p> <ul style="list-style-type: none"> • Establish the existing background noise levels; • Identify all potential noise sources from the operation of the premises, including any mechanical plant and equipment; • Estimate the level of potential noise emission; • Establish desirable acoustics performance criteria; and recommend any mitigation measures (such as sound proofing construction and/or management practices) required to achieve relevant noise criteria. 	<p>and is not a key issue.</p>	
3	Management Plan		
	<p>i) Submit a Management Plan with all DAs for new and existing boarding houses, that addresses the general requirements outlined in the Management Plan section in Part B, and the following specific requirements:</p> <ul style="list-style-type: none"> a) Criteria and process for choosing residents. Preference should be given to people on low and moderate incomes; b) A schedule detailing minimum furnishings for boarding rooms, provision of facilities and appliances for kitchens, bathrooms and laundry rooms and maximum occupancy of each room; c) House rules, covering issues such as lodger behaviour, visitor and party policies, activities and noise control, use and operation hours of common areas (e.g. communal open space and living rooms) and policies for regulating smoking and consumption of alcohol and illicit drugs; d) Professional cleaning 	<p>A suitable POM was submitted.</p>	<p>Yes</p>

DCP Clause	Controls	Proposal	Compliance
	<p>and vermin control arrangements for at minimum, the shared facilities, such as kitchens and bathrooms;</p> <p>e) Public notice and signs, including:</p> <ul style="list-style-type: none"> - A sign showing the name and contact number of the manager/caretaker, placed near the front entry and in a visible position to the public; - Clear display of fixed room identification number for each boarding room; and - Internal signage prominently displayed in each boarding room and/or communal living areas informing maximum number of lodgers per room, house rules, emergency contact numbers for essential services, annual fire safety statement and current fire safety schedule and emergency egress routes and evacuation plan. <p>ii) The manager/caretaker must maintain an up-to-date accommodation register with information on residents' details, length of stay, etc. and provide to Council officers upon request.</p>		

D3 Table: Randwick Junction Centre

DCP Clause	Controls	Proposal	Compliance
5	Visual Character		
	<p>i) Views and vistas should be addressed in the site analysis for new development, as they may necessitate adjustments to the built form and site layout, so that view corridors and vistas are not obstructed.</p> <p>ii) Development should fit within the wider townscape indicated by the view corridors and should not disrupt existing visual</p>	<p>The development will not impact any view corridors as identified in Figure 3 of clause 5 of this part of the RDCP.</p>	<p>Yes</p>

DCP Clause	Controls	Proposal	Compliance
	relationships.		
8	Site Planning		
	<p>i) Provide ground floor retail and/or commercial floor space along all business zoned street frontages, other than the frontage required for access.</p> <p>ii) In addition to the continuous commercial street frontage, the ground floor commercial area should have a minimum depth of 10 metres in order to achieve a viable shop or office size (except in heritage situations where it may be different).</p> <p>iii) Development should relate to the dimensions and shape of the site.</p> <p>iv) Development should integrate with the surrounding area through consideration of streetscape and landscape design and pedestrian and cycle links.</p> <p>v) Retain and integrate heritage items or contributory buildings and significant features such as stone fencing and retaining walls.</p> <p>vi) Development must minimise impacts on the amenity of neighbouring sites.</p>	<p>Ground floor retail is provided fronting Belmore Rd.</p> <p>The ground floor restaurant has a depth of 14m.</p> <p>The size and scale of the proposed development is considered to be excessive based on the site constraints.</p> <p>There are no opportunities for streetscape landscaping and pedestrian / cycle links for this site.</p> <p>Council's Heritage Planner required more details concerning the fabric that is proposed to be demolished, and therefore there is uncertainty regarding the extent of demolition.</p> <p>The development is not considered to minimise impacts on the amenity of neighbouring sites due to adverse bulk and scale that results in visual amenity impacts and overshadowing over and above what is permitted by a compliant envelope.</p>	No. Does not comply with iii), v), and vi).
9	Building Envelope		
	<p>Note: The floor space ratio may not be achievable if the height control is not satisfied, or if residential amenity standards are not able to be maintained.</p> <p>i) The FSR and building height controls set by RLEP together with DCP envelope controls define the overall built form and</p>	<p>The development exceeds maximum permitted building height and FSR standards. As noted by this section in the DCP, the maximum FSR may not be achievable is the height standard is not</p>	No

DCP Clause	Controls	Proposal	Compliance
	<p>scale of development.</p> <p>ii) New development should be built to the street alignment and to the side boundaries of the allotment.</p> <p>iii) Where adjoining and nearby development is set back from the street, new development should be consistent with the setbacks of adjoining development or the dominant setbacks along the street.</p> <p>iv) Where buildings are setback from the front boundary, such as the school and terraces along Avoca Street, fences are to be used to reinforce the street alignment and provide a strong visual transition point between public and private space.</p>	<p>satisfied, and residential amenity standards are not able to be achieved. As discussed throughout this report, residential amenity will be compromised, and the bulk and scale associated with the non-compliant FSR and building height is unacceptable.</p> <p>In terms of setbacks, the development is consistent with adjoining buildings. The increased setbacks to upper levels is acknowledged, however increased setbacks is not sufficient to mitigate impacts.</p>	
10	Building Design		
10.1	<p>Shopfronts</p> <p>i) Original heritage shopfronts and detailing (e.g. doors, tiles, windows and ornamental detailing) should be retained.</p> <p>ii) New shopfronts must be designed to reinforce the character of the locality and to ensure street level continuity. The form, scale and proportion of shopfront elements should be consistent with nearby heritage or contributory buildings/development.</p> <p>iii) Acceptable security measures include expanding metal grilles, open, perforated or clear shutters or shutter grilles which can be placed inside the shopfronts.</p> <p>iv) The use of solid roller shutters is unacceptable as these severely detract from the visual and heritage amenity of the area outside of business hours.</p> <p>v) The installation of "drop blind" type signs suspended from awnings is encouraged.</p>	<p>The original shopfront is proposed to be retained.</p>	Yes

DCP Clause	Controls	Proposal	Compliance
10.2	<p>Awnings</p> <p>i) Continuous awnings attached to buildings and covering all main pedestrian routes must be provided for pedestrian comfort.</p> <p>ii) Provide, as characterises many suburban shopping centres of similar age, steel5framed awnings, suspended from wall brackets, and covering the 3.5m wide footpath.</p> <p>iii) The traditional box awnings are acceptable as they consolidate the centre's overall character.</p> <p>iv) Development should include a flat suspended/ cantilevered awning to provide continuous pedestrian shelter.</p> <p>v) Awning fascias should align with the awning of adjoining buildings, matching the established height above footpath level.</p> <p>vi) The depth of the fascia should be uniform with adjoining properties. Design and materials should be light weight to complement the building to which the awning is to be attached.</p> <p>vii) Development should provide an awning across its street frontage, setback 600mm from the kerb, between 3.5m and 4.5m above the footpath and with openings provided for street tree planting. Gaps between awnings should be closed.</p> <p>viii) Glass or translucent roofing must not be used as these materials provide no shade and facilitate heat transfer. Opaque materials such as ribbed sheet steel are encouraged.</p> <p>ix) Drop blinds protecting shopfronts and shoppers from low sun angles should be included at the outer edge of awnings.</p>	<p>The existing awning is proposed to be demolished and replaced like-for-like. However, more details as to whether the existing awning is the original awning would be needed to determine whether the like for like replacement is appropriate.</p>	<p>Capable of complying.</p>

DCP Clause	Controls	Proposal	Compliance
	x) Advertising space on these could be used to diversify the street appearance. The underside of drop blinds should be at least 3m above the footpath level. In cases where it is impractical or unreasonable to require continuous awnings other forms of providing shade and shelter may be considered.		
10.3	<p>Upper Level Facades</p> <p>i) For new development, façade alterations and infill buildings, verandahs and upper storey balcony design and materials should be compatible to the heritage items and contributing facades within the area.</p> <p>ii) Cantilevered balconies should not be used on new buildings.</p> <p>iii) Balconies should be sized and arranged so that strong horizontal lines do not dominate the façade of the development.</p> <p>iv) Recessed balconies which modulate the façade should be incorporated in the design of new development.</p> <p>v) Balconies should be designed to protect the visual amenity of occupants, neighbours and the street and should therefore have a solid appearance.</p>	<p>Council's Heritage Planner advises that the additions are not sympathetic to the heritage fabric of the contributory building or the Heritage Conservation Area (refer to Appendix 1). The development is therefore not compatible with the contributing facades.</p> <p>With regards to the balconies, these are recessed and are well incorporated.</p>	No
10.4	<p>Materials and Colours</p> <p>i) Materials and finishes for new development should be compatible with adjoining and nearby development. Sympathetic use of building materials can reduce the impact of a modern shopfront on the streetscape.</p> <p>ii) Acceptable materials include face brickwork (traditional reds, browns and manganese) and rendered masonry. The use of precast concrete is to be avoided. Acceptable roof materials include corrugated iron and Marseilles tiles.</p> <p>iii) Original face brickwork or</p>	<p>The materials are not sympathetic to the heritage setting, with metal cladding proposed.</p>	No

DCP Clause	Controls	Proposal	Compliance
	<p>stone should not be painted or rendered.</p> <p>iv) Colours should enhance the locality and be appropriate to the architectural style of the building.</p>		
10.5	<p>Outdoor Advertising</p> <p>i) Advertising should respect and demonstrate an understanding of the design of the building and should not adversely affect the heritage streetscape values.</p> <p>ii) If an advertising structure is proposed to be attached to a building, the drawings accompanying the application should provide elevations showing windows, awnings or other major architectural features in relation to the advertising structure.</p> <p>iii) The use of above awning signage is not suitable.</p> <p>iv) The installation of “drop blind” type signs suspended from awnings is encouraged.</p>	None proposed.	N/A
11	Car Parking and Access		
	<p>i) To protect the streetscape on-site car parking is to be provided either at ground level or as basement car parking.</p> <p>ii) Above ground car parking must not be visible from Belmore Road or Avoca Street.</p> <p>iii) Carpark ventilation grilles must not be located on primary street frontages.</p> <p>iv) If the development has access to a rear lane, the loading and unloading facilities must be provided from the lane, in order to minimise the intrusion of vehicular access and servicing upon the pedestrian character of Randwick Junction.</p> <p>v) Rear servicing areas in mixed use development should be able to cater for both residential and commercial servicing requirements.</p>	Ground level parking is proposed with access off Bell Lane.	Yes

Attachment/s:

Nil

Responsible officer: William Jones, Senior Environmental Planning Officer

File Reference: DA/331/2019

Memorandum

TO: William Jones

FROM: Chris Donnellan

DATE: 3 October 2019

FILE NO: DA/331/2019

DA NO: DA/331/2019

PREMISES: 23 Belmore Road, RANDWICK NSW 2031

Proposed Development:

Redevelopment of site including retention of ground floor restaurant and front 2 storeys of building with three levels of boarding house.

Comments:

Rise of storeys – 4

Classification – Ground floor – Class 6 – restaurant

- First floor – Class 3 – place of shared accommodation
- Second floor – Class 3 – place of shared accommodation
- Third floor – Class 3 – place of shared accommodation

Type A construction.

Prior to determination of the development application, further information is required to be provided to Council to assess the suitability of the proposed levels of fire and safety within the development, in accordance with the provisions of clause 93 and 94 of the *Environmental Planning and Assessment Regulation 2000*.

Therefore, prior to determination of this application the following additional information should be provided for consideration.

Recommendation:

1. The existing levels of fire and safety within the premises are to be upgraded to achieve an adequate level of safety, having regard to the provisions of the *Environmental Planning and Assessment Regulation 2000* and a report prepared by a suitably qualified and experienced Building Code of Australia/Fire Safety Consultant is to be submitted to Council for consideration.

The report must include an assessment of the building having regard to relevant provisions of the Building Code of Australia and detail the proposed measures and upgrading works to be incorporated in the proposed development that are considered appropriate to achieve an adequate level of fire safety for the building and the occupants. Details of existing and proposed *fire safety measures* within or serving the premises are also required to be included in the report.

Upon receipt of this information further consideration will be given to the development application.

The report must be submitted to Council prior to determination of the application and the following requirements are to be satisfied:

- a) The report must include a detailed assessment of the existing building and compliance with the relevant provisions of the Building Code of Australia. The report must also include details of the measures and works considered appropriate to achieve an adequate level of fire and safety for the building and the occupants.
- b) The upgrading works contained in the report (as may be approved by Council) are to be included in the construction certificate and be implemented prior to issuing an occupation certificate for the new building or part and written confirmation is to be provided to Council accordingly.
- c) The report (or attachments to the report) must include a site plan and floor plans of the existing building, details of existing and proposed fire safety measures, fire-resisting construction and building exits.
- d) The report must be prepared by:
 - i) a Building Professionals Board (BPB) Accredited Certifier - Building Surveyor (Grade 1) [or]
 - ii) a Building Professionals Board (BPB) Accredited Certifier - Building Surveyor [or]
 - iii) a suitably qualified and experienced Building Surveyor or Building Fire Safety Consultant.

Last updated: July 2012

Memorandum

TO: MANAGER, DEVELOPMENT ASSESSMENTS

FROM: DEVELOPMENT ENGINEER

DATE: 10 SEPTEMBER 2019

FILE NO: DA/331/2019

DA NO: 331/2019 PREMISES: 23 BELMORE ROAD RANDWICK

An application has been received the redevelopment of the site including retention of ground level restaurant and front 2 storeys of building, with three level boarding house above comprising 11 boarding rooms, communal room and balcony, 1 carspace, 16 bicycle spaces, garbage storage and associated works (Variation to height control)(Heritage Conservation Area) at the above site.

This report is based on the following plans and documentation:

- Architectural Plans by Jackson Teece Architects, issue 1, dated 15/04/2019;
- Statement of Environmental Effects by Genevieve Slattery Urban Planning dated 11th June 2019;
- Detail & Level Survey by Project Surveyors Rev B dated 7/02/2019;
- Landscape Plan by PAA Design, dwg DA01, issue A, dated 26/03/19.

PARKING COMMENTS

Summary

If adopting the applicable SEPP Parking rate of 1 space per 2 rooms, the proposed boarding house will increase the parking shortfall on the site by approximately 4 spaces

In reality however the parking demand is not expected to change significantly from the existing situation given the low number of boarding house rooms, the sites location within Randwick town centre and the plethora of alternative forms of transport available. The site is very well situated to reduce dependence on a motor vehicle.

Insisting on the provision of additional parking in this instance would not be in the public interest given the additional risks to pedestrians on Belmore Road/Bell lane and within the site itself. The site is extremely constrained making the provision of any additional parking difficult to achieve while also maintaining satisfactory clearances and accessibility. This would be true for any redevelopment of the site.

In the absence of any other planning issues it would be difficult to justify refusal of this application based purely on the variation to the SEPP parking rate in this instance.

The provision of 1 motorbike space may be possible if the rear of the development is reconfigured and Development Engineering would prefer to see this explored further before supporting the Clause 4.6 variation.

More detailed parking comments are provided below.

PARKING PROVISION - CURRENT SITUATION

Parking Requirements for the existing development have been assessed as per the following applicable parking rates specified in Part B7 of Randwick Council's Development Control Plan 2013.

- Restaurants - 1 space per 40m² for first 80m² then 1 space per 20m² thereafter
- Residential - 1.2 spaces per 2 bedroom unit

The site currently contains a 2 storey building which accommodates a restaurant with storage and 1 parking space at the rear in a garage with a residential development above on Level 1 containing a 2 bedroom unit.

The existing restaurant has a floor area of approximately 104m² including the storage area, kitchen and toilet at the rear. Adopting the DCP rate above would result in a parking generation of 3.2 spaces for the restaurant.

The residential dwelling above comprises of a 2 bedroom unit generating a demand of 1.2 spaces under the DCP. Hence;

EXISTING PARKING DEMAND UNDER DCP = 3.2 (Restaurant) + 1.2 (unit)
= 4.4 spaces

EXISTING PARKING PROVIDED = 1 space within rear garage

EXISTING PARKING SHORTFALL = 3.4 SPACES

This may be considered as a parking credit for the proposed development.

PARKING PROVISION - PROPOSED DEVELOPMENT

The proposed development retains the existing restaurant (although with a smaller overall area) and replaces the dwelling above with an 11 room boarding house over 3 levels.

Under Council's DCP the parking demand for the restaurant would decrease slightly due to the decrease in floor area which would now be approximately 80m² thereby decreasing the parking demand to about 2 spaces.

Parking Requirements for boarding houses are initially guided by the parking rates specified in the SEPP Affordable Housing which specifies a 'do not refuse' standard parking rate for boarding houses (not being made by a social housing provider) of **0.5 spaces per room**.

As the proposed boarding house comprises of 11 room this suggests a required parking provision of 5.5 spaces (but see discussion below)

Hence

TOTAL PARKING REQUIRED = 2 (restaurant) + 5.5 (Boarding house)
= 7.5 spaces

PARKING PROVIDED = 1 space (accessed from Bell Lane) for the tenancy.

PROPOSED PARKING SHORTFALL = 6.5 spaces

If applying the existing shortfall of 3.4 spaces as a parking credit

REVISED PARKING REQUIRED = 7.5 - 3.4
= 4.1 spaces

PARKING PROVIDED = 1 space

REVISED PARKING SHORTFALL = 3.1 spaces

Note that this is the additional increase in the parking shortfall created by the proposed development (i.e. from 3.4 to 7.5 spaces). See discussion below

Motorbike & Bicycle Parking

The Affordable Housing SEPP states in regulation 30(h) that consent authorities must not consent to development unless at least one parking space is provided for a bicycle and one for a motorcycle for every 5 boarding rooms.

As the number of boarding rooms is 11 this will require the provision of 2 bicycle and 2 motorbike spaces.

The submitted plans demonstrate an over-compliance with the bicycle parking with 16 spaces provided but have not provided any motorbike parking. A Clause 4.6 variation has been submitted in support of the variation outlining the following justification

- There is an oversupply of bicycle parking
- Safety issues with pedestrians and car driver at the rear of the site
- The site is within 500m of 2 light rail stations
- The site is located immediately adjacent to bus services on Belmore Road and Alison road.
- There are recognized cycle way in close proximity.
- The site is well serviced by carshare pods
- The site is situated within Randwick town Centre

DISCUSSION ON PARKING SHORTFALL

It is acknowledged that there is an argument to be made for a reduction in the parking provision given the sites location in Randwick Town centre and readily available access to alternative forms of transport. Council does have the discretion to vary the parking requirements under Section 29(4) of the SEPP Affordable Housing.

Providing a fully parking compliant development based on the SEPP parking rate would be virtually impossible to achieve given the sites' constraints. The site is less than 5.4m wide and so could not even provide 2 carspaces side by side. Providing additional parking would also create additional issues for pedestrian safety by creating additional traffic in Bell Lane which then exits onto Belmore Road where a very high amount of pedestrian traffic is evident. The site is very well situated to reduce dependence on a motor vehicle.

Notwithstanding the departure sought by the applicant from the expected parking provision is significant and the applicant has not submitted a detailed Traffic and Parking assessment by a traffic consultant and has instead addressed the issue within the main body of the Statement of Environment Effects and the clause 4.6 variation in the case of the motorbike parking.

Upon assessment it is considered the parking demand is not expected to change significantly from the existing situation given the low number of boarding house rooms, the sites location within Randwick town centre and the plethora of alternative forms of transport available. The site is very well situated to reduce dependence on a motor vehicle and is likely to attract residents who don't have access to a motorvehicle.

It is the view of Development Engineering that insisting on the provision of additional parking in this instance would not be in the public interest given the additional risks to

pedestrians on Belmore Road/Bell lane and within the site itself. The site is extremely constrained making the provision of any additional parking difficult to achieve for any form of redevelopment

In the absence of any other planning issues it would therefore be difficult to justify refusal of this application based purely on the variation to the SEPP parking rate in this instance.

Should the assessing officer consider approving the application, Development Engineering would recommend the allocation of the single space to the retail component for deliveries and/or manager, hence there is little need to provide an accessible carspace. It is recommended this be changed to a normal commercial space.

CLAUSE 4.6 VARIATION for MOTORBIKE PARKING

The Clause 4.6 variation to remove the motorbike parking requirement has also been considered and for similar reasons for the lack of vehicle parking it is considered enforcing the requirement for the 2 spaces could result in issues with pedestrian safety and accessibility within the site and in this instance. Notwithstanding the provision of 1 motorbike space may be possible if the rear is reconfigured and Development Engineering would like to see this explored further before supporting the Clause 4.6 variation.

The provision of bicycle parking for at least every resident is supported as compensation.

WASTE MANAGEMENT COMMENTS

Comments on the number of Waste Bins

Council's Waste Management Guidelines specifies a waste generation rate for boarding houses of 9L/occupant/day for garbage plus 3L/occupant/day for recycling

Normal Waste generated (weekly collection) = $9 \times 11 \times 7 = 693\text{L}$

No of standard 240L bins required = $693/240 = 2.9 = \text{say } 3 \text{ bins}$

Recycled Waste generated (fortnightly collection) = $3 \times 11 \times 14 = 462\text{L}$

No of standard 240L bins required = $462/240 = 1.9 = \text{say } 2 \text{ bins}$

Hence a total of 5 x 240L bins will be required. The waste bin area for the boarding house only indicates 4 x 240L bins and so is slightly undersized. As the non-compliance is minor it is considered this can be addressed by condition.

Tree & Landscape Comments

There is no vegetation within the subject site at all, with conditions allowing the selective clearance pruning of the western aspect of the mature Tallowood, which is located on higher ground to the east, on the other side of Bell Lane, on another private property, only where it overhangs the roadway and is required so as to facilitate truck and machinery access, deliveries and similar, and should only be a minimal amount (if at all), given the height that its crown is already held above the road surface.

A Landscape Plan has been submitted showing a podium planter and landscaping along the eastern edge of Level 1, with a soil depth of 600mm to be provided (RL72430 - RL71830), which is sufficient to sustain the species selected, so conditions require its full implementation.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a 'Construction Certificate' is issued by either an Accredited Certifier or Randwick City Council. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

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

Security Deposit

1. The following damage / civil works security deposit requirement must be complied with, as security for making good any damage caused to the roadway, footway, verge or any public place; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A(6) of the *Environmental Planning and Assessment Act 1979*:

- \$5000.00 - Damage / Civil Works Security Deposit

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

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

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

Sydney Water

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

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

The [Tap in™](#) service provides 24/7 access to a range of services, including:

- Building plan approvals
- Connection and disconnection approvals
- Diagrams
- Trade waste approvals
- Pressure information
- Water meter installations
- Pressure boosting and pump approvals
- Change to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's **Tap in™** in online service is available at:
<https://www.sydneywater.com.au/tapin>

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

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

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

Traffic conditions

3. The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of AS2890.1:2004. The Construction Certificate plans must demonstrate compliance with these requirements.

Design Alignment levels

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

- **60mm above edge of bitumen/lip of gutter at all points opposite, along the full Bell Lane frontage.**

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

Any request to vary the design alignment level/s must be forwarded to and approved in writing by Council's Development Engineers and may require a formal amendment to the development consent via a Section 4.55 application.

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

5. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of **\$328** calculated at \$55.00 per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.
6. The gradient of the internal carspace must be designed and constructed in accordance with AS 2890.1 (2004) – Off Street Car Parking and the levels of the carspace must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate.

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

Stormwater Drainage & Flood Management

7. Detailed drainage plans with levels reduced to Australian Height Datum (AHD), shall be prepared by a suitably qualified Hydraulic Engineer and be submitted to and approved by the certifying authority. A copy of the plans shall be forwarded to Council, if Council is not the certifying authority.

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

- a. Stormwater runoff from the (redeveloped portion) site shall be discharged to the kerb and gutter along the site frontage by gravity (without the use of a charged system).

Waste Management

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

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

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

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

9. The garbage room for the boarding house shall be sized to contain a total of 5 x 240 litre bins (comprising 3 garbage bins & 2 recycle bins) and with adequate provisions for access to all bins. Details showing compliance are to be included in the construction certificate.
10. The commercial garbage area must be physically separated from the boarding house bin storage area.
11. 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.

Public Utilities

12. A *Public Utility Impact Assessment* must be carried out to identify all public utility services located on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the building works.

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

Landscape Plan

13. The Landscape Plan by PAA Design, dwg DA01, issue A, dated 26/03/19, must be amended to include the following additional details, with a written statement from a qualified professional in the Landscape/Horticultural industry to accompany this revised plan confirming compliance, with both this plan and statement to then be submitted to, and be approved in writing by, the PCA/Certifying Authority:
- a) A minimum **soil depth** of 600mm must be provided throughout the entire podium planter (TW72430 – RL71830), as has been shown on both the submitted Landscape Plan and Level 1 Floor Plan, dwg DA-100;
 - b) To ensure satisfactory maintenance of the planting, an automatic, timed drip irrigation system shall be installed. Details shall be provided showing that the system will be connected to the sites rainwater tanks (if applicable), with back-up connection to the mains supply, in accordance with current Sydney Water requirements.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

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

Construction Traffic Management

14. A detailed Construction Site Traffic Management Plan must be submitted to and approved by Council, prior to commencement of any site work [or]

The Construction Site Traffic Management Plan must be prepared by a suitably qualified person and must include the following details, to the satisfaction of Council:

- A description of the demolition, excavation and construction works
- A site plan/s showing the site, roads, footpaths, site access points and vehicular movements
- Any proposed road and/or footpath closures
- Proposed site access locations for personnel, deliveries and materials
- Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site)
- Provision for loading and unloading of goods and materials
- Impacts of the work and vehicular movements on the road network, traffic and pedestrians
- Proposed hours of construction related activities and vehicular movements to and from the site

- Current/proposed approvals from other Agencies and Authorities (including NSW Roads & Traffic Authority, Police and State Transit Authority)
- Any activities proposed to be located or impact upon Council's road, footways or any public place
- Measures to maintain public safety and convenience

The approved Construction Site Traffic Management Plan must be complied with at all times, and any proposed amendments to the approved Construction Site Traffic Management Plan must be submitted to and be approved by Council in writing, prior to the implementation of any variations to the Plan.

15. Any necessary approvals must be obtained from NSW Police, Roads & Maritime Services, Transport, and relevant Service Authorities, prior to commencing work upon or within the road, footway or nature strip.

Pruning

16. Permission is granted for the minimal and selective pruning of only those lower growing, lower order branches from the western aspect of the Tallowood, which is located on higher ground to the east, on the other side of Bell Lane, on another private property, only where it overhangs the roadway and is needed so as to facilitate truck and machinery access, deliveries and similar, and should only result in a minimal amount (if at all), given the height that its crown is already held above the road surface.
17. This approval does not imply any right of entry onto a neighbouring property nor does it allow pruning beyond a common boundary; however, where such measures are desirable in the best interests of correct pruning procedures, and ultimately, the ongoing health of this tree, the applicant must negotiate with the neighbour/tree owner for access to perform this work.
18. All pruning can only be undertaken by a Practising Arborist who holds a minimum of AQF Level III in Arboriculture, and to the requirements of Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and NSW Work Cover Code of Practice for the Amenity Tree Industry (1998).

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

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

Road/Asset Opening Permit

19. Any openings within or upon the road, footpath, nature strip or in any public place (i.e. for proposed drainage works or installation of services), must be carried out in accordance with the following requirements, to the satisfaction of Council:
 - A *Road / Asset Opening Permit* must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and

all of the conditions and requirements contained in the *Road / Asset Opening Permit* must be complied with.

- The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a *final occupation certificate* for the development.
- Relevant *Road / Asset Opening Permit* fees, repair fees, inspection fees and security deposits, must be paid to Council prior to commencing any works within or upon the road, footpath, nature strip or other public place.

For further information, please contact Council's Road / Asset Opening Officer on 9093 6691 or 1300 722 542.

Traffic Management

20. Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
21. All work, including the provision of barricades, fencing, lighting, signage and traffic control, must be carried out in accordance with the NSW Roads and Traffic Authority publication - 'Traffic Control at Work Sites' and Australian Standard AS 1742.3 – Traffic Control Devices for Works on Roads, at all times.
22. All conditions and requirements of the NSW Police, Roads & Maritime Services, Transport and Council must be complied with at all times.

Street awning

23. A report is required to be obtained from a professional structural engineer, which assesses and reports on the structural adequacy of the awning attached to the subject premises, located over the footway.

The report is required to:

- a) Confirm that the subject awning is currently structurally adequate and fit-for-purpose, or;
- b) Detail the necessary works required to be carried out to ensure that the awning is structurally adequate and fit-for-purpose.

In the case of a report provided in accordance with a) above, the report must be provided to Council and the Principal Certifying Authority prior to the issuing of an Occupation Certificate or commencement of the use (whichever the sooner).

In the case of a report provided in accordance with b) above, the necessary works identified in the report must be carried out and a further report or certificate must be provided to the Council and the Principal Certifying Authority which confirms that the necessary work has been carried out and the subject awning is structurally adequate and fit-for-purpose, prior to the issuing of an Occupation Certificate or commencement of the use of the land (whichever the sooner) or other timeframe approved by Council in writing.

Notes:

- If works are required to make the awning structurally adequate, any necessary approvals under the Local Government Act (1993), Roads Act (1993) and/or the Environmental Planning and Assessment Act (1979) must be obtained prior to the commencement of works to the awning.
- The structural engineering report referenced in this condition is NOT required if evidence is submitted to demonstrate that the subject awning was approved and constructed less than 10 years ago.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the 'Principal Certifying Authority' issuing an 'Occupation Certificate'.

Note: For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979, Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Council's Infrastructure, Vehicular Crossings & Road Openings

24. The owner/developer must meet the full cost for Council or a Council approved contractor to:
 - a) Construct concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site on Bell Lane.
 - b) Re-construct kerb and gutter for the full site frontage except opposite the vehicular entrance in Bell Lane including new road reknit as required.
25. Prior to issuing a final occupation certificate or occupation of the development (whichever is sooner), the owner/developer must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
26. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
 - a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
 - b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's

conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.

- c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

Sydney Water Requirements

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

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

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

Waste Management

28. Prior to the occupation of the development, the owner or applicant is required to contact Council's City Services department, to make the necessary arrangements for the provision of waste services for the premises.
29. The waste storage areas shall be clearly signposted.

Landscaping

30. Prior to any Occupation Certificate, certification from a qualified professional in the landscape/horticultural industry must be submitted to, and be approved by, the PCA, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Landscape Plan by PAA Design, dwg DA01, issue A, dated 26/03/19, and any relevant conditions of consent.
31. Suitable strategies shall be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

Residential Parking Permits

32. All prospective tenants of the building must be notified that Council will not issue any residential parking permits to occupants/tenants of this development.

33. A notice shall be placed in the foyer/common areas of the building advising tenants/occupiers that they are in a building which does not qualify for on-street resident parking permits.

ADVISORY NOTES

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

- Underground assets (eg pipes, cables etc) may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.
- The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.
- Further information and details on Council's requirements for trees on development sites can be obtained from the recently adopted Tree Technical Manual, which can be downloaded from Council's website at the following link, <http://www.randwick.nsw.gov.au> - Looking after our environment - Trees - Tree Management Technical Manual; which aims to achieve consistency of approach and compliance with appropriate standards and best practice guidelines.

.....
DEVELOPMENT ENGINEER/LANDSCAPE DEVELOPMENT OFFICER
JASON RIDER/D MEREDITH

Memorandum

TO: William Jones

FROM: Hanna Persson

DATE: 6 August 2019

FILE NO: DA/331/2019

DA NO: DA/331/2019

PREMISES: 23 Belmore Road, RANDWICK NSW 2031

Proposed Development:

Council is in receipt of an application to undertake alterations to an existing residential dwelling to a four storey mixed use development with a restaurant on the ground floor and 11 boarding house rooms, 1 communal kitchen/lounge area, 1 communal laundry and 1 communal open space. There will also be 16 bicycle parking spaces and 1 car parking space at the rear of the premises. The development is proposed for 23 Belmore Road, Randwick.

Comments:

Food Safety

The Environmental Health Team have raised concerns in relation to the lack of space allocated to the food premises on the ground floor. After reviewing the floor plan for the restaurant it appears that insufficient space for food preparation and food storage relevant to number of seats in the restaurant (dry food storage, cool room, utensils etc) have been allocated to the food premises and is not likely to comply with the relevant Australian Standards.

The fit-out of the food premises must be constructed to ensure the premises can be kept in a clean and sanitary condition, has sufficient preparation space to prevent the likelihood of food being contaminated (such as separated wash up area away from preparation area) and sufficient storage space for utensils and equipment, dry food and food to be stored in refrigerators/cool room and freezers.

A detailed floor plan for the food premises that includes additional or sufficient space for separated food storages areas, food preparation areas, wash up areas and details of the mechanical duct work and air discharge points should be provided to Council for assessment.

Noise concerns

An acoustic assessment prepared by Acoustic Logic (Document Reference 20190354.1/1104A/R0/WY) dated 11 April 2019 states that no detailed plant selection and location has been undertaken, making it difficult to demonstrate compliance will be achieved for noise and environmental performance.

In addition, the acoustic report states rooms at the western external façade facing Belmore Road, will not be able to achieve required internal noise levels with windows or doors open.

The proposed development also consists of a restaurant on the ground floor and potential noise nuisance from the use and operation of the restaurant has not been included in the acoustic report

In order to assess the existing and potential noise sources and emissions from the proposed development, and potential impact upon the amenity of the locality, an amended Acoustic Report should be provided to Council for assessment.

Plan of Management

A Plan of Management was submitted with the application which outlines some management procedures to address noise and operations concerns of the development. However the Plan of Management does not adequately address noise issues that may arise from activities from the premises.

A revised Plan of Management is required to be prepared and reviewed by the acoustic consultant to ensure the operation of the premises (including the food premises) does not adversely impact the amenity of the surrounding environment.

Recommendation:

The following information is required to be submitted to Council prior to determination of the development application.

1. An amended Acoustic Report is required to be prepared by a suitably qualified and experienced consultant in Acoustics and be submitted to Council prior to determination of the application.

The acoustic assessment and report is to be completed in accordance with the NSW Environmental Protection Guidelines, including the *Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance)* and relevant Australian Standards.

The report is to include (but not be limited) to;

- Noise emissions from all plant and equipment within the subject development (e.g. mechanical ventilation systems, refrigeration equipment etc);
- Noise emissions arising from the use and operation of the proposed development (including associated activities which may generate noise);
- Noise emission into the proposed development from the surrounding environment;
- Noise emissions between different uses/occupancies on the subject site
- Any recommendation for managing noise throughout the premises
- Road traffic noise intrusion (in accordance with the NSW Environmental Guidelines, *Environmental Criteria for Road Traffic Noise and AS3671*)
- Interior acoustic privacy (in accordance with Council's Development Control Plan, SEPP and BCA);

2. An amended Plan of Management to include (but not be limited to) the following items:

- Ensure compliance with the relevant conditions of approval,
- Detail of how noise will be managed including use of mechanical plant and equipment,
- Minimise the potential environmental and amenity impacts upon nearby residents from the use and operation of the premises (including the food premises),
- Effectively manage and respond to resident complaints,
- Ensure that the maximum number of patrons does not exceed the authorised capacity, in accordance with Council's consent.

- Any recommendations outlined by the acoustic consultant to manage noise impacts from the development
3. Provide a detailed floor plan for the food premises that includes additional or sufficient space for separated food preparation areas, wash up areas, food storage areas and location of mechanical duct work and air discharge points to meet the requirements under the Australian Standard 4674-2004 and *Food Act 2003*.

Last updated: July 2012

Memorandum

TO: William Jones

FROM: Hanna Persson

DATE: 5 August 2019

FILE NO: DA/331/2019

DA NO: DA/331/2019

PREMISES: 23 Belmore Road, RANDWICK NSW 2031

Proposed Development:

Council is in receipt of an application to undertake alterations to an existing residential dwelling to a four storey mixed use development with a restaurant on the ground floor and 11 boarding house rooms, 1 communal kitchen/lounge area, 1 communal laundry and 1 communal open space. There will also be 16 bicycle parking spaces and 1 car parking space at the rear of the premises. The development is proposed for 23 Belmore Road, Randwick.

Comments:

The proposed boarding house will incorporate 11 rooms, 1 communal kitchen/lounge room, bathrooms and laundry facilities and 1 common open space. The existing restaurant will remain on the ground floor.

Food Safety

A communal kitchen is proposed for the boarding house. The existing restaurant will be removed and rebuilt on the ground floor.

Proposed hours of operations for the restaurant are:

Mon – Sun: 10:00am – 10:00pm

The applicant was contacted on 2 August 2019 who advised that the proposed development involves internal alterations to the existing restaurant.

The Environmental Health Team have raised concerns in relation to the lack of space allocated to the food premises on the ground floor. After reviewing the floor plan for the restaurant it appears that insufficient space for food preparation and food storage relevant to number of seats in the restaurant (dry food storage, cool room, utensils etc) have been allocated to the food premises and is not likely to the relevant Australian Standards. The fit-out of the food premises must be constructed to ensure the premises can be kept in a clean and sanitary condition, has sufficient preparation space to prevent the likelihood of food being contaminated (such as separated wash up area away from preparation area) and sufficient storage space for utensils and equipment, dry food and food to be stored in refrigerators/cool room and freezers.

Should the application be approved, appropriate conditions in relation to food safety have been included in this referral to ensure compliance with relevant legislation and Australian Standards.

Acoustic Amenity

An acoustic assessment prepared by Acoustic Logic (Document Reference 20190354.1/1104A/R0/WY) dated 11 April 2019 states that no detailed plant selection and location has been undertaken, making it difficult to demonstrate compliance will be achieved for noise and environmental performance. Once final equipment selections and locations are known, a detailed assessment of mechanical plant noise levels should be submitted.

In addition, the acoustic report states rooms at the western external façade facing Belmore Road, will not be able to achieve required internal noise levels with windows or doors open.

The proposed development also consists of a restaurant on the ground floor and potential noise nuisance from the use and operation of the restaurant has not been included in the acoustic report.

Considering the acoustic report could not assess noise from mechanical plant and equipment, potential noise nuisance from the operation of the restaurant has not been included and that internal noise levels in parts of the building exceeds the internal noise criteria, if an additional acoustic report is not submitted with the DA prior to determination then it is recommended that an acoustic report be submitted prior to the construction certificate and occupation certificate being issued for the development to ensure the use and operation of the development comply with the relevant noise criteria.

The use and the operation of the boarding house has the potential to create offensive noise and the patrons behaviours is likely to impact on the other users of the boarding house and/or the neighbouring residential properties. An amended Plan of Management has been requested to be submitted prior to the occupation certificate being issued for the development to ensure compliance with the relevant conditions of approval and relevant noise criteria.

The potential for noise nuisance has been considered and appropriate conditions have been included in this referral.

Environmental Amenity

Standard conditions in relation to pollution control have been included in the following referral to ensure compliance with relevant legislation and guidelines.

Land Contamination

The Statement of Environmental Effects stated that minor excavation associated with footings will be undertaken at the site.

A review of Council's computer database system Pathway, HPRM System and discussion held with Council's Technical, Research and Property Officer indicates that the site has only been used for retail and residential purposes and is not likely to be subject to contamination.

Recommendation:

Should the application be approved, it is recommended that the following conditions be included:

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

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

1. All recommendations detailed in section 5.3 of the Acoustic Report No: 20190354.1/1104A/R0/WY prepared by Acoustic Logic dated 11 April 2019 are to be included in the construction certificate plans. The acoustic consultant shall confirm in writing to the certifying authority that all acoustic requirements have been complied with prior to a construction certificate being issued for the development.
2. 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 satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, Environmental Protection Authority Noise Control Manual & Industrial Noise Policy, relevant conditions of consent (including any relevant approved acoustic report and recommendations). The assessment and report must include all relevant fixed and operational noise sources.

Certification and Building Inspection Requirements

3. Prior to the commencement of any building or fit-out works, the following requirements must be complied with:
 - a) a *Construction Certificate* must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
 - a) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
 - b) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
 - c) at least two days notice must be given to the Council, in writing, prior to commencing any works.

Design, Construction & Fit-out of Food Premises

4. In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
5. The premises is to be designed and constructed in accordance with the *Food Act 2003*, *Food Regulation 2015*, Australia & New Zealand Food Standards Code and Australian Standard AS 4674-2004, Design, construction and fit-out of food

premises. Details of the design and construction of the premises are to be included in the documentation for the construction certificate to the satisfaction of the certifying authority.

6. The design and construction of the food premises must comply with the following requirements, as applicable:-

- a. 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.
- b. 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, wash hand basins, sinks and equipment.

- c. 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.
- d. 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), with a light coloured washable paint finish. 'Drop-down' ceiling panels must not be provided in food preparation or cooking areas.
- e. All stoves, refrigerators, bain-maries, stock pots, washing machines, hot water heaters, large scales, food mixers, food warmers, cupboards, counters, bars etc must be supported on wheels, concrete plinths a minimum 75mm in height, metal legs minimum 150mm in height, brackets or approved metal framework of the like.
- f. 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.
- g. Fly screens and doors with self-closing devices, are to be provided to all external door and window openings and an electronic insect control device/s are to be provided in suitable locations within the food premises.
- h. A mechanical ventilation exhaust system is to be installed where cooking or heating processes are carried out in the kitchen or in food preparation areas, where required under the provisions of Clause F4.12 of the BCA and Australian Standard AS 1668 Parts 1 & 2.

Emission control equipment shall be provided in mechanical exhaust systems serving the cooking appliances, to effectively minimise the emission of odours, vapours and oils.

- i. Wash hand basins must be provided in convenient positions located in the food preparation areas, with hot and cold water, together with a sufficient supply of soap and clean towels. The hot and cold water must be supplied to the wash hand basins through a suitable mixing device.
 - j. Cool rooms or freezers must have a smooth epoxy coated concrete floor, which is to be sloped to the door. A floor waste connected to the sewer is to be located outside the cool room/freezer. The floor waste should be provided with a removable basket within a fixed basket arrestor and must comply with Sydney Water requirements.
 - k. All cool rooms and freezers must be able to be opened from the inside without a key and fitted with an alarm (bell) that can only be operated from within the cool room/freezer.
 - l. Any space or gap between the top of any cool room or freezer and the ceiling must be fully enclosed and kept insect and pest proof (e.g. plasterboard partition with gaps sealed).
7. A certificate or statement must be obtained from a suitably qualified and experienced Food Safety Consultant, which confirms that the design and construction of the *food business* will satisfy the relevant requirements of the *Food Act 2003*, Food Standards Code and AS 4674 (2004) - Design, construction and fit-out of food premises, prior to a construction certificate being issued for the 'fit-out' of the *food business*, to the satisfaction of the Principal Certifying Authority.

Sydney Water Requirements

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

The approved plans must be submitted to a Sydney Water Quick Check agent, to determine whether the development will affect Sydney Water's waste water and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

If suitable, the plans will be appropriately stamped. For details please refer to the Sydney Water web site at www.sydneywater.com.au for:

- Quick Check agents details - see *Building and Developing* then Quick Check and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see *Building and Development* then *Building and Renovating*, or telephone 13 20 92.

The Principal Certifying Authority must ensure that a Sydney Water Quick Check Agent has appropriately stamped the plans prior to issuing the construction certificate.

9. Liquid trade waste materials are to be drained to the sewer (via a suitable grease trap) and details of compliance are to be submitted to the Certifying Authority.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

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

Demolition Work Plan

10. A Demolition Work Plan must be prepared for the development in accordance with *Work Health and Safety Regulation 2017*, SafeWork NSW Code of Practice for the safe removal of asbestos and 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. 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 SafeWork licences and permits.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

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

Demolition Work Requirements

11. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Randwick City Council's Asbestos Policy and the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:
- *Work Health and Safety Act 2011*;
 - *Work Health and Safety Regulation 2017*;
 - SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
 - Australian Standard 2601 (2001) – Demolition of Structures;
 - *Protection of the Environment Operations Act 1997*;
 - *Protection of the Environment Operations (Waste) Regulation 2014*; and

- Randwick City Council Asbestos Policy.

A copy of Council's Asbestos Policy is available on Council's web site or a copy can be obtained from Council's Customer Service Centre.

Removal of Asbestos Materials

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

- Work Health & Safety legislation and SafeWork NSW requirements
- Randwick City Council's Asbestos Policy
- A SafeWork licensed demolition or asbestos removal contractor must undertake removal of more than 10m² of bonded asbestos (or as otherwise specified by SafeWork or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifying Authority and Council.
- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'Danger Asbestos Removal In Progress' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2014*. Details of the disposal of materials containing asbestos (including receipts) must be provided to the Principal Certifying Authority and Council.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person), must be provided to Council and the Principal certifying authority as soon as practicable after completion of the asbestos related works which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

A copy of Council's Asbestos Policy is available on Council's web site or a copy can be obtained from Council's Customer Service Centre.

13. Any hazardous and/or intractable wastes arising from any demolition, excavation, building and any remediation works are to be managed and disposed of in accordance with the requirements of SafeWork NSW and the Environment Protection Authority (EPA), including the provisions of:

- Work Health and Safety Act 2011
- Protection of the Environment Operations Act 1997 (NSW)
- Protection of the Environment Operations (Waste) Regulation 2014
- NSW EPA Waste Classification Guidelines 2008
- Randwick City Council's Asbestos Policy

14. Any new information which is identified during demolition or construction works that has the potential to alter previous conclusions about site contamination or the remediation strategy shall be notified to the Principal Certifying Authority (PCA) and Council immediately in writing.

The written concurrence of the Principal Certifying Authority (PCA) and Council must be obtained prior to implementing any changes to the remediation action plan or strategies.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the '*Principal Certifying Authority*' issuing an '*Occupation Certificate*'.

Note: For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

15. Places of Shared Accommodation must comply with the *Local Government (General) Regulation 2005* and the *Boarding Houses Act 2012* and the premises must also be registered with NSW Fair Trading and Council (as applicable) **prior to issue of an occupation certificate**.
16. A report, prepared by a suitably qualified and experienced consultant in acoustics, shall be submitted to the Council **prior to an occupation certificate** being issued for the development, which demonstrates and certifies that noise and vibration from the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW EPA Noise Control Manual & Industrial Noise Policy, Council's conditions of consent (including any relevant approved acoustic report and recommendations), to the satisfaction of Council. The assessment and report must include all relevant fixed and operational noise sources.

Food Safety

17. The food 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.

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

Environmental Amenity

18. 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 & Climate Change Noise Control Guidelines.

19. 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.
20. All the noise control methods listed in in 'House Rules' of the Plan of Management prepared by Genevieve Slattery Urban Planning Pty Ltd, reference number 17057, dated 11 June 2019 for the development of the boarding house at 23 Belmore Road, Randwick, shall be implemented at all times together with the revised Plan of Management as requested as part of this consent.
21. No music is to be played in outdoor communal area at any time.
22. The use of the outdoor courtyard area is restricted to:

Monday- Sunday 7:00am – 10:00pm
23. The use and operation of the premises shall not give rise to an environmental health or public nuisance.
24. An amended plan of management shall be submitted to and approved by Council prior to the issue of an occupation certificate which details the measures to be implemented to:
 - ensure compliance with the relevant conditions of approval,
 - ensure compliance with relevant noise criteria and minimise noise emissions and associated nuisances,
 - minimise the potential environmental and amenity impacts upon nearby residents,
 - effectively minimise and manage anti-social behaviour,
 - effectively manage and respond to resident complaints,
 - ensure responsible service of alcohol and harm minimisation,
 - provision of adequate security and surveillance,
 - ensure that the maximum number of patrons does not exceed the authorised capacity, in accordance with Council's consent.
25. The owner or owner's agent shall ensure that a notice is placed near the entrance to the property in a visible position to the public advising of the owner's contact name and an after-hours contact number.
26. Each occupant shall be furnished with a set of house rules (i.e. the Plan of Management) and that no variation shall be permitted without the further approval of Council.
27. The owner or owner's agent shall maintain a record of all residents with details of their names, length of stay & number of persons in each room. This information shall be stored for a minimum of 12 months on site and made available to Council Officers upon request.
28. All residents in the boarding house accommodation are to sign a lease or licence agreeing to comply with the Plan of Management (PoM) for the boarding house, with the length of the lease to be determined by the management.
29. There are to be no emissions or discharges from the premises which give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.

30. The individual rooms, common areas, shared facilities and yard are to be maintained in a clean and tidy state and individual's rubbish is to be placed in the appropriate receptacles.
31. The onsite manager and/or security guard must establish and maintain a process and documented system for the recording and resolution of complaints made to the premises and the owner. All complaints are to be attended to in a courteous and efficient manner and referred promptly to the owner and/or onsite manager. The appropriate remedial action, where possible, is to be implemented immediately and owner and/or onsite manager is to contact the complainant within 24 hours to confirm details of action taken.

Waste Management

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

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

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

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

Food Storage

33. All food preparation, cooking, display and storage activities must only be carried out within the approved food premises.

Storage shall be within appropriate shelves, off the floor and in approved storage containers. External areas or structures such as the garage must not be used for the storage, preparation or cooking of food, unless otherwise approved by Council in writing and subject to any necessary further approvals.

Food Safety Requirements

34. The food premises must be Registered with Council's Health, Building & Regulatory Services Department and the NSW Food Authority in accordance with the Food Safety Standards, prior to commencing business operations.
35. A *Food Safety Supervisor* must be appointed for the business and the NSW Food Authority and Council must be notified of the appointment, in accordance with the *Food Act 2003*, prior to commencing business operations. A copy of which must be maintained on site and be provided to Council officers upon request.
36. 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.

A digital probe type thermometer must also be readily available to check the temperature of food items.

37. 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.
38. Food safety practices and the 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.

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.

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.

39. The food premises and common areas must be kept in a clean and sanitary condition at all times, including all walls, floors, ceilings, fixtures, fittings, appliances, equipment, fridges, freezers, cool rooms, shelving, cupboards, furniture, crockery, utensils, storage containers, waste bins, light fittings, mechanical ventilation & exhaust systems & ducting, storage areas, toilet facilities, basins and sinks.

Hours of Operation

40. The hours of the operation of the food business is restricted to the following:-

Monday to Sunday inclusive, from: 10:00am to 10:00pm

The delivery of goods are restricted to the following hours:

Monday to Saturday: 7:00am- 7:00pm

Sunday: 8:00am- 7:00pm

Sanitary Facilities

41. Sanitary facilities, plus wash hand basin and paper towel dispenser or hand dryer and appropriate signage, must be provided for customers and staff and be maintained in a clean and sanitary condition at all times.

Regulatory Requirements

42. The primary purpose of the premises is for the provision of food and the premises must not to be used principally, for the sale, supply and consumption of alcohol.

The written approval of Council and a relevant Liquor Licence under the (*Liquor Act 2007*) must be obtained beforehand for any proposed sale, supply and consumption of alcohol on the premises.

GENERAL ADVISORY NOTES

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

- A1 The assessment of this development application does not include an assessment of the proposed building work under the Food Act 2003, Food Safety Standards or Building Code of Australia (BCA).

All new building work must comply with relevant regulatory requirements and Australian Standards and details of compliance are to be provided in the *construction certificate* application.

- A2 The design and construction of the premises must satisfy the requirements of the Food Act 2003, Food Standards Code and AS 4674 (2004). Prior to finalising the design and fit-out for the development and prior to a *construction certificate* being obtained, advice should be obtained from an accredited Food Safety Consultant (or Council's Environmental Health Officer).

- A3 The applicant and operator are also advised to engage the services of a suitably qualified and experienced Acoustic consultant, prior to finalising the design and construction of the development, to ensure that the relevant noise criteria and conditions of consent can be fully satisfied.

Last updated: July 2012

Memorandum



TO: MANAGER, DEVELOPMENT ASSESSMENTS

FROM: HERITAGE PLANNER

DATE: 21 June 2019

FILE NO: DA/331/2019

DA NO: DA/331/2019

PREMISES: 23 Belmore Road, RANDWICK NSW 2031

The Site

The site is within the Randwick Junction heritage conservation area and is occupied by a two storey Edwardian style building comprising ground floor retail and upper floor commercial/residential. The building features a curved parapet with rendered mouldings and string courses. No.25 Belmore Road immediately to the south is similar in style.

The site is within the Randwick Junction heritage conservation area, with nos.23, 25, 29 and 31 – 33 Belmore Road identified as Contributory Facades. In terms of aesthetic significance, the Statement of Significance for the heritage conservation area notes that buildings are generally two to three storeys and are generally built to the street alignment for the full width of the allotment. To the south of the site at nos.35 – 43 Belmore Road is a three storey Art Deco building, listed as heritage item under Randwick LEP 2012. To the east of the site are at nos.191 and 193 Alison Road, are “Seabird” and “Glanmire” also listed as heritage items. The NSW Heritage Database listing for nos.35 – 43 Belmore Road notes the aesthetic significance of the building, which demonstrates the key characteristic elements of the Art Deco style, with impressive and distinct brickwork detailing created by combination of geometric pattern, and polychromatic and textured face brick.

Proposal

The application proposes substantial demolition and alterations and additions to the existing building to provide a four storey building behind the existing two storey façade. At ground floor level, it is proposed to provide a restaurant, service areas and a rear car space accessed from Bell Lane. Upper floor levels comprise communal areas and single and double boarding house rooms on either side of a partial courtyard.

Submission

The application has been accompanied by a Statement of Heritage Impact submission prepared by NBRS + Partners. In terms of exterior detail, the SHI notes the building was first constructed c.1892, altered and extended in the late 1930s, and altered several times since then, with the front façade above the awning close to being intact apart from the insertion of the window in the original opening and rendering of brickwork. In terms of interior detail, the SHI advises that the ground floor appears to retain no original fittings, fixtures or finishes, but the first floor has retained some of its original layout, especially the front room which retains its original walls, cornice and pressed metal ceiling, and the former front balcony which retains its fine tessellated tile floor. The SHI notes that the stairwell and an adjacent storeroom contain some original elements, but the rear section of the building at ground and first floor level has very little heritage significance. In relation to Views, the SHI advises that the primary views of the subject site are those of the front facade on Belmore Road and from the east end of Silver street, with no distant views or vistas available from, or of, the subject site because it is not taller than its neighbours. In terms of significance, the SHI advises that:

The early Federation shop with a dwelling above, has a façade above awning level that contributes some historical and aesthetic heritage value to the Randwick Junction Conservation Area. This streetscape

contribution would be enhanced by restoring the balcony. The front room at first floor level is partly intact. The other built elements of the site lack a period origin or sufficient integrity to contribute to the conservation area. The place does not meet the threshold for local heritage listing.

The SHI advises that the proposal includes demolition of the 1930s rear extension and the highly altered rear section of the shop, leaving the front room on the first floor and its façade and party walls; and that the front façade would be conserved by patching chipped sections of the decorative render and re-opening the balcony arch.

In relation to positive and negative impacts of the proposal, the SHI advises that the restoration of the balcony would have a positive impact on the conservation area, that the upper-most portions of the development would be visible from the public domain but the original front façade would be the dominant element of the building in all views of the site from Belmore Road.

In relation to Demolition, the SHI considers that the fabric which is to be removed at ground and first floor level and to the rear, makes little contribution to the conservation area. In relation to additions, the SHI notes that new building bulk would be set back behind the upper front room, by more than 7m, with the upper portions of the development designed to resemble roof elements. In relation to adjacent heritage items, the SHI considers that the proposal will have a similar scale to the adjacent heritage item in Belmore Road, and to surrounding development in Bell Lane (to the rear of the Alison Road heritage items). The SHI concludes that the design of the minor alterations has been designed to contrast quietly with the retained sections of the building, that all existing views to and from the heritage items in the vicinity will be unchanged, and that the application will have an acceptable impact on the Randwick Junction Conservation Area.

Controls

Clause 5.10(1) of Randwick Local Environmental Plan 2012 includes an Objective of conserving the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views.

Clause 5.10(4) of Randwick Local Environmental Plan 2012 requires Council to consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area.

In relation to contributory buildings, the Randwick Junction section of Randwick Development Control Plan 2013 advises that contributory buildings should be retained, original fabric conserved, new work should be sensitive, and neighbouring development should be sympathetic to their character. In relation to Building Design, the DCP includes an Objective that new development respects the detailing, materials and finishes of surrounding heritage and contributory buildings.

Comments

Demolition

The proposal to retain the front section of the building at ground and first floor level allows for the retention of the front room at first floor level including walls, cornice and pressed metal ceiling, and provides a separation between new and existing building fabric which relates to the layout of the original building. The retention of the front section of the building should provide a reasonable level of structural integrity to the façade of the building.

All fabric in the rear section of the building is to be demolished, which generally appears to include later alterations and additions, and secondary building fabric which has been considerably altered.

Conservation works

The opening up of the previously enclosed upper level balcony will reinstate the traditional interface between the building and street and provide depth to the front façade. The HIS advises that the front façade will be conserved by patching chipped sections of the decorative render, however elevations note only "existing façade to be reinstated". It is suggested that a schedule of conservation works be sought providing further detail on required internal and external conservation works.

Streetscape visibility of the addition

The site is around 5.5m wide and highlights the difficulties in achieving a successful design with regard to external form and internal amenity. Lots along both sides of Belmore Road have an awkward configuration where the front boundary and most front facades are at a 45 degree angle to the side boundaries. It is noted that the new development opposite at nos.12 – 14 Belmore Road has also adopted the approach of relating the front wall of the addition to the line of the front façade.

The second level of the addition will be around 1.5m above the existing parapet, while the third level of the addition will be around 3m above the existing parapet. Photomontages which have been submitted indicate that the proposed addition will be screened by no.25 Belmore Road and will have no visibility along Belmore Road from the south. Photomontages indicate however that from the north, the proposed addition will have considerable visibility across Bell Lane and above no.21 Belmore Road.

The HIS argues that upper portions of the development have been designed to resemble roof elements, and the proposal has been designed to contrast quietly with the retained sections of the building. The proposed addition however have a complex building envelope comprising front and rear sections separated by a partial courtyard, with the front section having a stepping form highly visible in the streetscape. Any proposal for the site should demonstrate a very sensitive relationship between existing building fabric which is to be retained, and the proposed addition. There are concerns that the proposed addition will dominate and compete with the existing and adjacent contributory buildings, and that it will be a prominent element in the skyline of the Randwick Junction heritage conservation area. The removal of the top level of the front section of the proposed addition would considerably simplify the building envelope and reduce the bulk and visibility of the proposal.

Comment should be sought on the consistency of the proposal with the building envelopes contained in the planning strategy for Randwick Junction town centre which is currently being developed.

Recommendation

A meeting should be organised to discuss these issues.

Report Author:

.....
Lorraine Simpson
Heritage Planner

Joint Randwick / Waverley Design Review Panel

Endorsed Recommendations

Item	2	Date of report	August 2019
Address	23 Belmore Road, Randwick NSW 2031	Application no.	DA/331/2019
Date of meeting	5 August 2019		
Panel members	Michael Heenan (Chair), Richard Nugent (Tom Rivard, Jonathan Knapp on leave)		
Council staff	Terry Papaioannou		

INTRODUCTION

Attached is a copy of the minutes relating to this SEPP 65 meeting.

The Panel's comments are intended to assist Council in their design consideration of an application against the SEPP 65 principles. The absence of a comment under a head of consideration does not imply that particular matter to be satisfactorily addressed, more likely the changes are suggested elsewhere to generate a desirable change.

Your attention is drawn to the following;

- SEPP 65, including the 9 Design Quality Principles and the requirements for a Qualified Designer (a Registered Architect) to provided Design Verification Statements throughout the design, documentation and construction phases of the project.
- The Apartment Design Guide, as published by Planning NSW (July 2015), which provides guidance on all the issues addressed below.

Both documents are available from the NSW Department of Planning.

Note:

The Design Review Panel is appointed by the NSW Minister for Planning, on the recommendation of Council. The Panel's written and verbal comments are their professional opinions and constitute expert design quality advice to Randwick Council, the architect and the applicant.

1. *To address the Panel's comments, the applicant may need to submit amended plans. **Prior to preparing any amended plans or attending additional Panel presentations, the applicant MUST discuss the Panel's comments and any other matter that may require amendment with Council's assessing Planning Officer.***
2. *When addressing the Panel's comments by way of amendments, if the applicant does not propose to address all or the bulk of the Panel's comments, and wishes to make minor amendments only, then it should be taken that the Panel considers the proposal does not meet the SEPP 65 requirements. In these instances it is unlikely the scheme will be referred back to the Panel for further review.*

Joint Randwick / Waverley Design Review Panel

Endorsed Recommendations

PANEL COMMENTS

This is a DA for alterations and additions to an existing building. This is the second review for this proposal with the first taking place at a Pre-DA meeting in April 2018.

The scheme proposes an infill boarding house with 11 rooms compressing single and double room configurations. A retail shop of approximately 100sqm is provided at the front of the building with Belmore Road access. The proposed building is separated into two 4 storey buildings by a 12sqm landscaped space and circulation corridors in the centre of the block. One accessible car space and 16 bike racks are proposed.

An amalgamation study was undertaken with sites immediately to the north and south of the site. The study was inconclusive with no offers for amalgamation being taken up.

Principle 1: Context and Neighbourhood Context

The site comprises a single lot with a street address of 23 Belmore Road, Randwick. The site is located between Bell Lane and Belmore Road. The building that occupies the site has a commercial premises fronting towards Belmore Road with service access and one garage space from Bell Lane.

The site is located about 70m south of Alison Park and in an established commercial area within 180m of the Royal Randwick Shopping Centre. The site has good access to amenities such as churches, schools, banks, police station and is just over 600m from UNSW. The site is located at approximately 450m from the Randwick Hospital and the Sydney Children's Hospital. The area draws a number of workers, students and residents together for shopping, dining and services.

Belmore Road is the main commercial strip of the Randwick town centre strategically located between Alison Road, Avoca Street and High Street. The road reserve is almost 20m wide and has a wide carriageway that allows for buses and parallel parking along the pavement providing good transport access to the site. The nearest light rail stop is approximately 450m to the south at High Street.

Although not listed as a heritage item itself, the building is a contributory item within a heritage conservation zone, in particular, the façade facing Belmore Road. The character Belmore Road is that of a local shop-top high street with a variety of façade types, materials and period styles that contribute to its rich and fine grained character. The rear lane consists of service and parking areas of little architectural merit and provides entries to shop top housing and the rear entry of the Marcellin College Randwick. The front of the site requires a sensitive design approach to integrate any visible new development with the scale and character of Belmore Road.

At the rear of the site buildings vary from 2 to 3 storeys in height. Along Belmore Road buildings are generally 2 to 3 storeys up to a new RFB of 8 storeys adjacent to the Royal Randwick Shopping Centre.

Principle 2: Scale and Built Form

The front wall and parts of the original building have been retained in the scheme. The original open balcony along Belmore Road on Level 1 has been restored.

Joint Randwick / Waverley Design Review Panel

Endorsed Recommendations

The scheme is 4 storeys in height facing Belmore Road and Bell Lane. The site steps upward towards Bell Lane approximately 1.7m near the mid-point. Height limits of 12m across the site step to reflect this.

The scheme provides an infill solution that occupies the full footprint of the site. The proposed greatest building height is about 12.91m, which is beyond the 12m LEP height limit. The Panel suggests that the building height comply with the allowable height in the LEP to minimise any potential scale and overshadowing impacts to the surrounding context.

It is noted that a 4m and an 8.8m setback along Belmore Road are proposed on Level 2 and Level 3 respectively. The proposed secondary setbacks along Belmore Road will provide scale mitigation and will reduce impacts to the contributory façade along Belmore Road.

Principle 3: Density

The scheme notes a proposed FSR ratio of 2.1:1, which exceeds the LEP control of 2.0:1. The actual FSR would be higher if additional areas that are enclosed by walls of 1.4m or above are included. This would result in an FSR of approximately 2.2:1.

Principle 4: Sustainability

In response to previous Panel comments, solar panels, ceiling fans and skylights on the roof have been introduced in the proposal. The Panel is in support of this approach. Other sustainability measures should be adopted, including:

- Rainwater harvesting, storage, treatment and re-use, for garden irrigation, toilets and laundry.
- A compost area should be provided in the landscaped area.

Principle 5: Landscape

A landscape plan has been provided by PAA Design. A landscaped area along the north boundary towards the centre of the site is proposed, with an area of about 12sqm. The Panel is in support of the location of the courtyard; however, the size of the courtyard does not provide appropriate amenity as configured.

A setback to Bell Lane was suggested in the Pre-DA comments to accommodate landscaping at that location. The Panel understands that the new plan that incorporates parking and simplified stair configuration that does not leave adequate space for a significant setback for landscape. This is considered acceptable and also assists with the need to avoid deep recessed areas in the laneway for safety reasons.

Joint Randwick / Waverley Design Review Panel

Endorsed Recommendations

Principle 6: Amenity

The boarding rooms offer mixed amenity. Internal rooms rely on the courtyard for light and air. Rooms facing the streets have balconies which will provide some relief from the density of this part of Randwick. The common area is well located along Belmore Road and the Panel notes the reinstatement of the original balcony at this location, however it will not receive adequate sunlight due to the orientation of the building's western façade.

While rationalisation has taken place with the revised design of the courtyard, it lacks amenity in the form of sunlight and places to sit. A significant portion of this space is taken up by circulation along the stair and almost no light reaches the courtyard at winter solstice. A primary objective of private open space for boarding houses is to provide access to social opportunities and sunlight.

The courtyard in its present configuration does not achieve these objectives. A grilled door on the ground level corridor from Bell Lane to the courtyard was proposed in the previous scheme and should be retained. This would allow natural air flow through the courtyard and avoid it becoming a heat trap on hot summer days. The amenity for residents needs to be improved. This could be achieved by enlarging the courtyard or providing some roof top open space.

The balcony on Belmore Road, while providing amenity for the common room, does not generally meet the minimum 3m width and receives poor sunlight.

Principle 7: Safety

The configuration of the entrance along Bell Lane provides some recessed space. Given the relatively isolated and dead-end configuration of Bell Lane it is important that no concealed spaces are created. Mitigation measures, such as a mirrored surface, should be considered. The proposed resident's entry through a car space garage should be revised so that residential circulation is separated from vehicle parking.

Principle 8: Housing Diversity and Social Interaction

This is a convenient and attractive location with good services and is suitable for residential boarding house accommodation. This will bring additional life into the area after hours.

Principle 9: Aesthetics

The Panel supports the minimalist approach to materiality and form as demonstrated with the scheme. A distinctive façade treatment between the Level 2 Façade and the existing Belmore Road façade is proposed. The reinstatement of the balcony at Level 1 on Belmore Road is supported.

Joint Randwick / Waverley Design Review Panel Endorsed Recommendations

SUMMARY AND RECOMMENDATIONS

The proposal submitted is an appropriate transformation of the site in this location and the Panel is generally supportive of the scheme with some modifications.

Improving amenity for residents in this densely developed part of Randwick is an important consideration. To comply with the height limit, and provide improved access to light and air, an option may be the removal of the front room on Level 3 and replacing it with a terrace that can serve as private open space. This would improve compliance with both the height limit and private open space requirements.

Parking requirements have not been met as no motorcycle spaces have been provided and there is an under provision of car spaces. The Panel notes, however, the over provision of bicycle spaces. The site is within 500m of a light rail station and the proponent will need to make a case for this situation.

Preliminary Planning Assessment Sheet - working document

Description

Redevelopment of site including retention of ground level restaurant and front 2 storeys of building, with three level boarding house above with 11 boarding rooms, communal room and balcony to front, 1 carspace, 16 bicycle spaces, garage storage and associated work.

Ground Floor

- Partial demolition of existing building and demolition of rear garage. Retention of a two-storey section of building fronting Belmore Road and removal of metal hood and replacement of awning.
- Provision of a restaurant and kitchen with capacity for 40 seats with access from Belmore Road.
- Provision of a waste storage area for the restaurant and boarding house.
- Bicycle storage for 16 bicycles.
- Electrical and plant rooms.
- Accessible car parking space accessed from Bell Lane.
- Pedestrian access to the boarding house from Bell Lane.

First Floor – Boarding house

- Communal living area with balcony fronting Belmore Road (balcony occupying original balcony).
- 2 x single rooms facing onto an internal landscaped courtyard with balconies.
- 1 x double room with balcony facing Bell Lane.

Second Floor – Boarding house

- 3 x double rooms with 1 facing onto Belmore Road, 1 facing onto a void (to the internal landscaped courtyard below), and 1 facing Bell Lane with a balcony.
- 1 x single room with balcony facing onto the void.

Third Floor – Boarding house

- 1 x double room facing Bell Lane with a balcony.
- 3 x single rooms with 1 facing Belmore Road and 2 facing the internal void (1 with balcony).

Address

- 23 Belmore Road, RANDWICK NSW 2031
- Ward: West
- LOT 8 DP 82171
- Land Area: 221.3m² (225m² based on survey drawing).

Lodged

- 20 June 2019

Applicant

- Mr A Lee

Owner

- Mr A Lee

- Owner - Ms L Li

Site History

- Existing two-storey shop top housing comprising ground floor restaurant and garage at the rear, and first floor 3 bedroom dwelling.
- DA/462/1969 - USE EXISTING SHOP AS A FISH SHOP. Approved: 28/10/1969.

Zoning

- B2 Local Centre pursuant to the Randwick LEP 2012.

Permissibility

- A restaurant and Boarding Houses are permitted with consent in the B2 zone.

Exhibition

- Notified until 17 July. No submissions received to date (11 July).

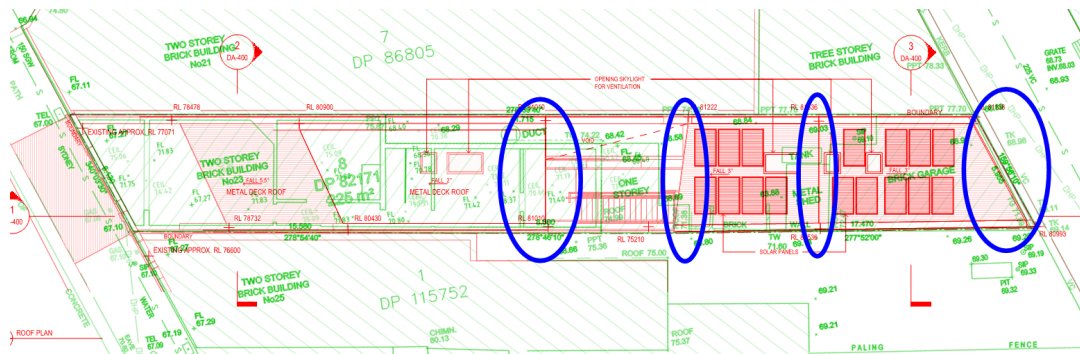
Internal Referrals

- Design Excellence Panel
- Development Engineer
- Landscape Officer
- Heritage Planner – Referral response received requiring Schedule of Conservation Works to be provided providing further details on required internal and external conservation works. Concerns also raised with the uppermost level and the design that visually competes with other buildings (recommends deleting the front portion).
- Environmental Health Officer
- Compliance Officer

Randwick LEP

- The site is subject to a Heritage Conservation Area, and is opposite a Local Heritage Item at the rear (Marcellin College).
- The site is subject to a 12m maximum building height. The extent of the variation is greater than depicted in the submitted documentation given that the building height is measured from existing ground level, which is taken to be 300mm beneath any existing slab. The building heights are calculated as follows:
 - Highest point of the western section of the building (RL 81.01) above existing ground level (RL 68.1) = 12.91m. This reduces as the roof slopes to the west (RL 80.9) above existing ground level (RL 71.5) = 9.4m on the northern side of the western section of roof, and reduces to the west (RL 80.43) above existing ground level (RL 71.53) = 8.9m on the southern side of the western section of roof.
 - Highest point of the eastern section of the building (RL 81.53) above existing ground level (RL 68.73) = 12.8m. This increases as the roof slopes down to the west (RL 81.22) above existing ground level (RL 68.39) = 12.83m. This decreases as the roof slopes down to the east (RL 81.38) above existing ground level (RL 68.69) = 12.69m on the northern side of the eastern section of roof, and decreases as the roof slopes down to the east (RL 80.99) above existing ground level (RL 68.69) = 12.3m.

Therefore, the section drawing does not accurately depict the extent of the building height variation. The western section of the building proposes a greater variation that reduces to comply as the uppermost roof slopes down, and the eastern section of the building does not comply.



Overlay of roof plan (red) and survey (green) identifying points of non-compliance.

The greatest building height variation proposed (12.91m associated with the highest point of the western section of building) = 7.5% variation.

The ceiling heights of the eastern section of building are 2.9m and could be reduced to 2.7m that will likely result in this section of the building complying with the building height standard.

The ceiling heights of the western section of the building are considered too minimal for parts of the second and third floors towards the Belmore Road frontage. The ceiling heights have been reduced to reduce bulk and scale within the heritage conservation area and evidently were reduced on the assumption that this section of roof does not comply with the building height. However based on the calculation of building height above, there is scope to increase these ceiling heights to improve amenity. *However*, this will need to be carefully considered in terms of visual amenity impacts upon the heritage conservation area, overshadowing, and in coordination with Council's Heritage Planner who suggests that the front portion should be deleted.

Noting other concerns below (non-compliant FSR, solar access to the communal living area, minimal outdoor communal open space, and poor amenity for internalised boarding rooms with concerns also raised as to lack of solar access to internal courtyard that is proposed to contain significant vegetation), it is considered that a total reconfiguration of the development is required so that the bulk and scale is reduced and communal facilities are relocated to the uppermost level to achieve compliance with relevant standards.

The Applicant should also provide a 3D building height plane drawing based on the survey drawing that clearly illustrates the extent of non-compliance.

- The Applicant's written request to vary the height of buildings development standard pursuant to clause 4.6 of the RLEP seeks to address the matters that are required to be demonstrated in subclause 3 by:
 - Demonstrating that compliance is unreasonable and unnecessary given the development complies with the objectives of the standard in that the size and scale is suitable and compatible with contributory building within a

conservation area, the development will not impact the amenity of neighbouring properties.

- Demonstrating that sufficient environmental planning grounds exist given the non-compliance at the front is a result of the retention of the front of the building and the non-compliance will not result in adverse impacts to the street of neighbouring properties, and the non-compliance at the rear allows at-level car parking with compliant ceiling heights above.

The Applicant's written request does not adequately demonstrate that compliance is unreasonable and unnecessary for the following reasons:

- The development is not considered to be in accordance with the objectives of the height of buildings standard in that the size and scale is not compatible with the desired future character given visual impacts upon the heritage conservation area / contributory buildings and noting other non-compliances with development controls that establish the future character. Concerns are also raised that the amenity of neighbouring land will be impacted.
- The Applicant argues that the additional bulk and scale will not be prominent should the adjoining properties be developed, however this has not been demonstrated. The reconfigured development will need to be supported with additional perspective drawings that illustrate the proposed building envelope alongside compliant building envelopes for the northern and southern neighbouring properties. A complying envelope is also required on the subject site both with and without complying envelopes on the neighbouring properties to understand any visual amenity impacts as a result of the proposed non-compliance (building height and FSR). The perspective drawings should be provided at eye level as viewed from Belmore Road from vantage points where the built form will be most prominent.
- The applicant argues that the additional bulk and scale will not result in additional overshadowing compared to a complying envelope, however this has not been demonstrated. The submitted shadow diagrams are not clear given the extent of proposed shadows appear to also be projected from other buildings. All existing shadows should be shown, and a clear outline of the proposed shadow presented on the same drawing. Shadow diagrams at hourly intervals are required. Also, a compliant building envelope on the site should be shown as part of the 3D solar diagrams to understand whether any non-compliance (with height and FSR) as a result of the reconfigured development will result in additional overshadowing of any living room windows or POS of any neighbouring dwellings. The windows and POS of any neighbouring dwellings also must be shown.

The Applicant's written request does not adequately demonstrate sufficient environmental planning grounds for the following reasons:

- Impacts associated with the variation are not fully understood.
- The floor to ceiling heights at the rear of the site exceeds minimum requirements therefore the building height can be reduced.

Therefore a new written request will need to be submitted to accompany the reconfigured development.

- The maximum FSR for the site is 2:1 pursuant to the RLEP. The bonus FSR pursuant to the ARH SEPP is not applicable in this case given a residential flat building is not permitted with consent on this site pursuant to clause 6.14 of the

RLEP. This is because the existing building was always shop top housing and was not originally designed or constructed for the purposes of a RFB.

The maximum FSR = 2:1 (450m²). The Applicant's calculation = 2:1 (449m²), however the Applicant's GFA calculation plan excludes the first floor courtyard, internal balconies and some of the horizontal circulation that is considered to be enclosed with walls greater than 1.4m. The second and third floor breezeways and internal balconies are not entirely enclosed and therefore can be excluded as GFA. Council's calculation is as follows:

- Ground floor = 110.4m²
- First floor = 169.1m²
- Second floor = 124.3m²
- Third floor = 94.4m²
- FSR = 2.21:1 (498.2m²)

10.7% variation, therefore the DA must be determined by the RLPP and a written request pursuant to clause 4.6 of the RLEP is required for Council's consideration (which has not been submitted).

- The Applicant has also submitted a written request pursuant to clause 4.6 of the RLEP to vary the ARH SEPP with regards to Clause 30 (1) (h) that requires 2 motorcycle spaces to be provided. No motorcycle parking is provided (100% variation). Will need to assess the merits of the written request after Development Engineering comments are provided to understand the impacts of the shortfall.

State Environmental Planning Policy (Affordable Rental Housing)

- Based upon the submitted shadow diagrams, the west-facing, first floor communal living room will receive 1 hour solar access from 3pm until 4pm on 21 June, which does not comply with the SEPP (3 hours between 9am and 3pm). The constraints of the site is acknowledged, however it is noted that the second floor receives 4 hours solar access (around the access stair) and the third floor 5 hours solar access. There is scope to reconfigure the development so that a communal living area is provided that will receive at least 2 hours solar access in accordance with the SEPP. This will likely need to be provided as part of the uppermost level.
- The communal open space adjacent to the communal living area is 8m², and does not comply with the SEPP (20m² min required with min dimension of 3m). Reconfiguration of the building is required so that an enlarged POS area is provided.
- 6 car parking spaces are required and 1 accessible car parking space is provided, which does not comply.
- 2 motorcycle parking spaces required and 0 (nil) spaces are provided, which does not comply.
- 2 bicycle parking spaces required and 16 spaces provided, which complies.
- Boarding room sizes comply.
- Character of the local area pursuant to clause 30A: Part D3 of the RDCP provides descriptions of the character of the area, which is largely based upon the heritage significance of the area noting that new development must be sensitive to contributory buildings as part of the heritage conservation area. Noting comments from Council's Heritage Planner and non-compliances with building height and FSR and the use of inappropriate materials, the development is not in accordance with the desired future character of the area.

Randwick DCP

The site is part of the Randwick Junction Centre (Part D3 of the RDCP):

- The subject site including the adjoining building to the south are identified as “buildings contributing to streetscape character” i.e. contributory buildings within the heritage conservation area. The retention of only the outer skin of these buildings is not acceptable and new work should be sensitive. This might be problematic as the extent of new development is not considered to be sensitive, particularly noting non-compliances with FSR and building height and inappropriate massing and materials.
- Part D3 notes that the maximum FSR might not be achievable if compliant building height and satisfactory residential amenity is not achieved. The lowered ceiling heights and lack of solar access to the communal living area will result in poor residential amenity. Therefore, the FSR must be reduced to achieve better amenity.
- Materials and finishes should be compatible with surrounding development. Acceptable materials include face brickwork and rendered masonry. The proposed sheet metal cladding is not sympathetic to the existing building or surrounding buildings.

The boarding house is subject to Part C4 of the RDCP):

- The internally facing boarding rooms are not orientated to receive maximum sunlight. Based upon the submitted shadow diagrams, some solar access is achieved towards the middle / southern side of the site, which only benefits the stair. The internal rooms (and west-facing communal living room) could be reconfigured to make better use of this solar access.
- Outdoor communal open space size requirements is the same as the ARH SEPP, which does not comply. In addition, the RDCP notes that a roof terrace cannot be used as the sole or main outdoor area (note that this is not a control, but a “note” in this section of the DCP). Given the constraints of the site, it is considered that in this case a roof terrace might be the only means to ensure good residential amenity is achieved, and to reduce bulk and scale of the uppermost level.
- 20m² communal living room required with minimum 3m dimension. Given communal open space does not currently comply, a compliant communal living room is mandatory to ensure good residential amenity is achieved. The proposed communal living room = 30m², which complies. However it does not receive min solar access in accordance with the ARH SEPP.

Other Additional Information Required

- Provide standard elevation drawings (for north, south, east and west elevations) without an oblique perspective of the development. Also clearly show the adjoining buildings with RLs based on the survey (the massed grey does not assist in understanding the proposal’s relationship to the streetscape).

Comments on draft drawings provided 23 Sep

- Reduced GFA from 2.21:1, to 2:1 (complies), reconfigured common room with 20m² communal open space with improved solar access. The same number of rooms are proposed (6 single and 5 double).
- How has the GFA been reduced?

- The communal living room has been relocated from the first floor, to the second floor and reduced from 30m² to 26m² (19m² required for 16 occupants), and is now provided with direct access to 20m² communal open space. The “bird’s eye” shadow diagrams seem to skip from 12pm to 3pm, demonstrating solar access to the communal living room from 3pm until 4pm only (3 hours required).
- The eastern section of building could have reduced floor to ceiling height / provision of a flat roof to comply with the building height.
- Section 1 shows a revised existing ground line that gradually slopes up to the east. How does this work if the existing building is directly underneath with a presumably flat ground floor slab? Existing ground line must be based upon the survey, noting that it is taken to be 300mm beneath the slab of any existing building directly beneath.
- The floor to ceiling heights of the western section of building are minimal and will result in poor residential amenity. Will these comply with the BCA? Preference would be to have increased floor to ceiling to 2.7m where compliance with the LEP can still be achieved. Why must there be angled roof forms?
- With regards to heritage comments, the main concern was views from the north, and the additions that visually competes with the existing building and adjoining contributory buildings. It was recommended to delete the uppermost level of the western portion. However, can its form be simplified? Perhaps incorporated into a habitable roof type structure that does not read as a full additional storey? Can the roof of the second floor also be made more simplistic? The idea is for the additions to not visually compete with the existing building. Will discuss with Lisa, however will need 3D perspectives at street level. Also need standard elevation drawings.

Comments on Amended Drawings Received 4 December 2019

- Changes made: Replacement of 1 double room with 1 single room (7 single and 4 double proposed), deletion of internal balconies, provision of a second communal outdoor area at Level 2, decreased front setback of Level 3 from 10.6m to 10.3m, minor external changes to roof slope.
- If including the first floor landscaped area as GFA (it is enclosed but open to the sky) then FSR will not comply. 1.99:1 shown on submitted calculation drawings, and max 2:1 permitted.
- Building height is measured from beneath the existing slab, at RL 67.07. Therefore, the max building height is 13.3m (westernmost section) increasing to 13.9m to the east (of the westernmost section). The westernmost part results in a 2.4m ceiling height to one single room, increasing to 2.8m for the eastern single room. The western room will result in poor residential amenity and cannot be supported. These two rooms could however be combined via condition as one 25m² room. Therefore, support for the variation will be based upon whether the additional height will impact the HCA / be in accordance with the existing character.

Will likely need to delete these front 2 rooms. The building will then read as predominantly 2 storeys with recessed third storey, and further recessed fourth

storey. If this is decided, then revised drawings are required and a revised 4.6 as the application could not be supported based upon the current 4.6.

- Height variation also proposed to section of the eastern building, however this fronts a laneway and will not have adverse impacts.
- The communal room is provided at the first floor that will not receive compliant solar access. Applicant's justification is that a lift cannot be accommodated to grant accessible access to all floors due to the change in levels. A stair lift platform is provided from the ground to first floor, which also accommodates the accessible room.
- No motorcycle parking is provided, and a clause 4.6 is submitted (100% variation and therefore RLPP).
- Is there a communal laundry, or are individual washers / dryers provided?
- Will need a BASIX Certificate.