JRPP No:	**2011SYE009**
DA No:	**DA/1113/2010**
PROPOSED DEVELOPMENT:	**Adaptive re-use of existing Heffron and Delaney Buildings for residential purposes and construction of 2 multi-unit buildings to create 163 apartments with basement carparking for 200 vehicles, landscaping, strata sub-division and associated works - 1 Fleming Street and 30-36 Harvey Street, Little Bay.**
APPLICANT:	**Little Bay South 2 Pty Limited**
REPORT BY:	**Major Assessment Co-ordinator – Randwick City Council**

Assessment Report and Recommendation

1. EXECUTIVE SUMMARY

Council is in receipt of a development application proposing adaptive reuse of 2 existing heritage buildings, namely, the Heffron and Delaney Buildings for residential purposes and construction of 2 multi unit buildings (referred to as Building A and Building B) at the rear, each one being part 5/part 6 storeys in height with 2 levels of basement car parking for 200 vehicles and a total of 163 apartments, landscaping, strata subdivision and associated works.

The application is referred to the Joint Regional Planning Panel for determination pursuant to clause 13B (1)(a) of State Environmental Planning Policy (Major Development) 2005 as the development has a capital investment value in excess of $10 million.

Additional information relating to verandah partitions in the adapted heritage buildings has been provided by the applicant to address visual impact concerns raised by the Heritage Council.

The proposal is permissible under the Randwick Local Environmental Plan (Consolidation). The proposal does not comply with the maximum FSR and storey and building height standards of the Randwick LEP 1998. The proposal has an FSR of 1.25:1 (max 8737 sqm) which exceeds the maximum FSR control of 1.2:1 (max 8403 sqm) resulting in an excess of 334 sqm. The proposal also breaches the maximum 5 storey height having a part-6 storey component in both Buildings A and B; the maximum external wall height control of 17m in that Building A and B will have maximum wall heights of 18m and 18.5m respectively; and the maximum building height control of 18m in that Building A will be 18.5m. State Environmental Planning Policy No.1 (SEPP No.1) objections have been submitted in relation to the breach of these controls.

An assessment of the SEPP 1 objections indicates that strict compliance with the controls would be unreasonable and unnecessary as detailed in Section 5 of this report. In particular, the additional floor area and height are distributed in localised sections of the proposed development namely, the part six storey level which has been stepped in line with the topography and setback from the main building lines of Building A and B; and the new “wing” sections between Building A and the Delaney Building which will be light-framed and lower than these two buildings. The proposed buildings will generally occupy the designated permissible footprint in the DCP thus providing for compliant open space at ground level both privately for individual dwellings and in common as a landscaped

central courtyards and corridors. Overall, the breaches in FSR and height are not considered to translate to a perceptibly bulky and excessively scaled complex of buildings that do not relate appropriately with the context of the surrounding development and natural environment. Rather, the proposed development will be in an area of the City where the character of development is expected to change significantly as part of the overall master plan redevelopment of the Prince Henry Site, involving in this case an integrated development combining a high density adaptive re-use of heritage buildings with new multi-unit housing blocks. A number of multi-unit development of similar bulk and scale have already been developed in the Prince Henry site such that the proposed development will not be out of character with these existing developments. Additionally, the new buildings will not have any adverse impact on the amenity of adjoining and neighbouring properties in terms of solar access, privacy and views as assessed in Section 10 of this report.

The proposal does not comply with the DCP – Prince Henry Site in terms of the 3m setback to the edge of articulation zone on Harvey Street (both buildings A and B have sections that are 3m setback to glass line on Harvey Street); the maximum 5 storey height of buildings A and B (both buildings will be part 5/part 6); the extension of the new wing sections forward of designated building articulation areas for Building A; and the relative height of parts of Building A extending above the Delaney building. These variations in setback, storey height, articulation areas and relative height (to heritage building) have been assessed in relevant sections of the report and are considered justified in the circumstances.

The proposal is an "integrated development" as the subject site is located within the Prince Henry conservation area which has been gazetted in the State Heritage Register. Accordingly, the proposal was referred to the Heritage Council of NSW for approval, and notified and advertised in accordance with the EP&A Act 1979 (as amended). The Heritage Council has issued its General Terms of Approval for the proposed development which have been incorporated as conditions of consent. One submission was received in response to the notification and advertising of the DA raising a concern regarding the excess number of dwelling units from that designated under the Prince Henry Master Plan. This matter has been addressed by way of Section 94 contribution as applicable in such cases for the Prince Henry Site.

The subject site is located within the Prince Henry Site which was the subject of a Master Plan adopted in December 2001. Under the amendments to the Environmental Planning and Assessment Act 1979 gazetted on 16 June 2005, the Master Plan is now made a Deemed Development Control Plan (Deemed DCP). The proposal is consistent with the requirements of the Deemed DCP.

A previous DA (DA/530/2008) for a similar development (the adaptive reuse of the Heffron and Delaney Buildings for residential purposes and the construction of two new multi-unit housing buildings, Building A and Building B, at the rear, each one being part 5/part 6 storeys in height with 2 levels of basement car parking for 159 vehicles and a total of 102 dwellings, associated private recreational facilities and landscaping) but at a reduced FSR (1.22:1) and moderately lower Building B (18.1m) than the current DA was approved on 26 May 2009 (see comparison of previous approved DA and current DA in Table 1 below).

The application is considered suitable for approval subject to conditions.

2. SITE DESCRIPTION AND LOCALITY:

The subject site is located in the southern part of the Prince Henry Site within Precinct P3 and the Historic Precinct identified in the DCP – Prince Henry Site, on the corner of Fleming and Harvey Streets.

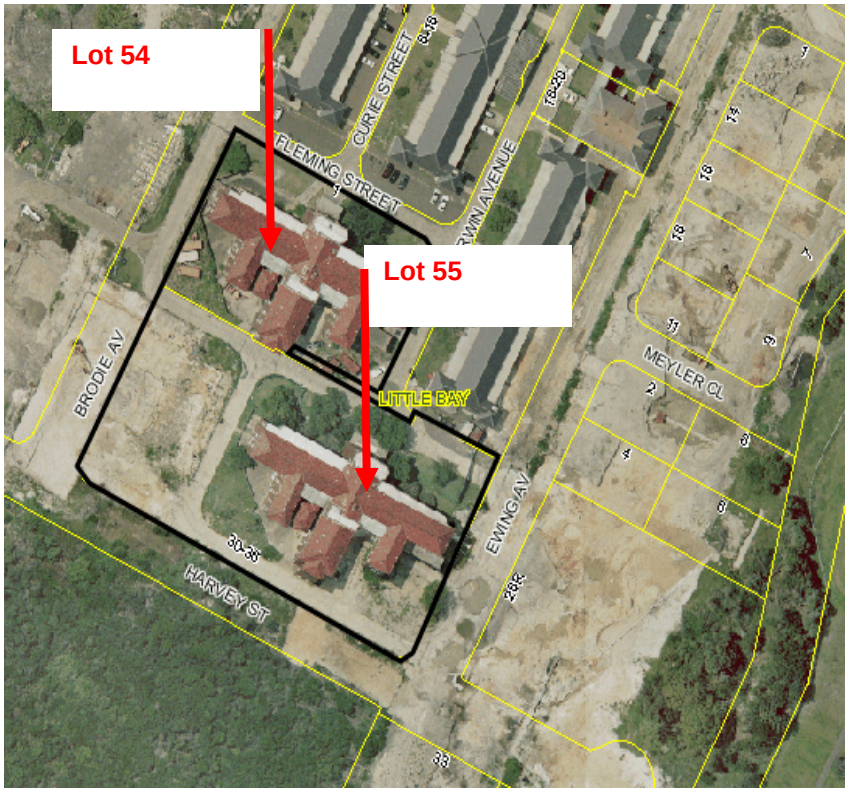

Figure 1: Aerial view of subject site

The site comprises the following lots:

- Lot 54 which contains the heritage listed Heffron Building and is bounded by Fleming Street, Darwin Avenue, Gull Street and Brodie Avenue, and has a site area of 3,462 sqm.

- Lot 55 which contains the heritage listed Delaney Building and cleared land to the rear/south of the Heffron and Delaney Buildings which is proposed for the two new buildings, and is bounded by Gull Street, Ewing Street, Harvey Street and Brodie Avenue, and has a site area of 7003 sqm.

The subject site (Lots 54 and 55) has a combined area of 10,465 sqm and generally slopes from west to east towards the coast, and falling from the south-western corner to the north-eastern corner, resulting in a cross fall of approximately 7.4m.

To the west across Brodie Avenue is vacant land designated for an approved town-house development under DA No. 571/2008. To the north across Fleming Street are the single storey Flowers Wards buildings, listed as highly significant in the Master Plan and CMP which have been subject to a previous DA approval for adaptive residential use. To the east across Darwin Avenue is Flowers Ward building 6 and across Ewing Street is land designated for public open space (Bob-a-Day Park) in the Master Plan. To the south across Harvey Street is native bushland.

Photo1 : Photographs of the site and surrounds	
1. The subject site viewed from Brodie Avenue with the Heffron Building in the background. Adjoining the site to the north are the Flowers Wards buildings to the right.	2. The subject site viewed from Harvey Street with the Delaney Building in the background and native bushland on the opposite southern side.
	
3. Delaney Building as viewed at the corner of Harvey Street and Ewing Avenue. Note the fall of the street and the subject site towards this corner.	4. The eastern section of the subject site fronting Ewing Avenue with Bob-a-Day Park on the eastern opposite side of Ewing Avenue.
	
3. The portion of the site for Building B with the Heffron and Delaney building in the background. Note diagonal fall of the land towards the Heffron and Delaney Buildings.	4.. The portion of the site for Building A with the Delaney building in the background. Note fall of the land towards the Delaney Buildings.

The immediate locality is characterised by a number of recent and emerging multi-storey development including an Aged Care Home at 1460 Anzac Parade, the Aboriginal Health College at 33 Harvey Street and the end of Harvey Street and the new mixed use development at 1-5 Pine Avenue.

Photo 2: Multi-storey developments in the southern section of the Prince Henry Site	
1. The Aboriginal Health College at 33 Harvey Street.	2. The mixed commercial/residential development at 1-5 Pine Avenue.
	

3. HISTORY:

The site forms part of the wider Prince Henry site which is the subject of a Master Plan/Deemed DCP adopted on 27 May 2003 and subsequently amended on 18 October 2005, 30 May 2006 and July 2006.

Following gazettal of an amendment to the Randwick Local Environmental Plan 1998 on 26 November 2004 and the Prince Henry site was rezoned to a mix of 2D Residential (Comprehensive Development), 6 Special Uses and 7 Environmental Protection. The amendment also prescribed height, FSR and landscape area requirements for development within the 2D area of the site. In July 2004, the Prince Henry Site DCP was approved by Council and became effective after the gazettal of the subject amendment to RLEP1998.

DA/530/2008	Adaptive reuse of the Heffron and Delaney Buildings for residential	Approved – 26 May 2009

	purposes and the construction of two new multi-unit housing buildings (referred to as Building A and Building B) at the rear, each one being part 5/part 6 storeys in height with 2 levels of basement car parking for 159 vehicles and a total of 102 dwellings.	
Section 96 (1A) – DA/530/2008/A	Section 96(1a) Modification of approved development by deletion of condition 5 relating to materials in balustrades and detailing in buildings A and B	Refused – 22 December 2010

The proposal was subject of PreDA which was referred to the SEPP 65 Design Review Panel on 8 November 2010. The applicant subsequently amended the proposal to incorporate the Panel's advice as reflected in the current DA scheme.

4. THE PROPOSED DEVELOPMENT

The current proposal is essentially an amended proposal to that originally submitted following a response to issues raised by the Heritage Council.

The proposal has the following development statistics (with the previous approved DA (DA530/2008) included for comparison):

	Previous approved DA (DA/530/2008)	**Current DA (DA/1113/2010)**
No. of dwelling units	102	163
Apartment mix	16 x 1 bedroom 39 x 2 bedroom 47 x 3 bedroom	83 x 1 bedroom 50 x 2 bedroom 30 x 3 bedroom
Apartment distribution	1 bed 2 bed 3 bed Heffron 11 10 9 Delaney 1 6 6 Building A 0 14 16 Building B 4 9 16	1 bed 2 bed 3 bed Heffron 20 19 5 Delaney 9 4 7 Building A 33 14 7 Building B 21 13 11
Parking	159 car spaces 44 bicycle spaces	200 car spaces 79 bicycle spaces
FSR (only new multi-unit buildings)	1.22:1 (8572 sqm)	1.25:1 (8737 sqm)
Max Building Height	Building A: 18m Building B : 18.1m	Building A: 18m Building B : 18.5m

Landscaping	53% (total landscaped area for consolidated site (ie., Lots 54 and 55 (5546sqm)	46% (total landscaped area for consolidated site (ie., Lots 54 and 55 (4832sqm)

Table 1 : Development statistics

The proposal essentially has two components, namely, the adaptive re-use of the existing heritage buildings and the construction of two new multi-unit residential buildings as follows:

(1) Adaptive reuse of the existing heritage buildings for residential use comprising:

Heffron Building

(A) Externally, demolish rear wings, retain the main north-south wing and central east-west wing of the Heffron Building, and erect two new rear wings to either side of the north-south wing; reconstruct entrance detailing and remove existing glazed enclosures to the front verandahs and provide them with new dividing screens (Adapted building will contain 20 x 1 bedroom, 19 x 2 bedroom and 5 x 3 bedroom dwellings)
(B) Internally, remove a number of internal walls and construct new walls to create dwelling units; remove selected internal stairs and lifts while retaining the existing internal stairs at the front of the buildings.

Delaney Building

(A) Externally, demolish rear wings to the south of the main retained east-west wing and replace with new access corridor with lift and services for the new apartments within the Delaney Building and to two apartments per level of the adjoining building A; reconstruct entrance detailing and remove most of the existing glazed enclosures to the front verandahs and provide them with new dividing screens; (Adapted building will contain 9 x 1 bedroom, 4 x 2 bedroom and 7 x 3 bedroom dwellings)
(B) Internally, remove a number of internal walls and construct new walls to create dwelling units; remove selected internal stairs and lifts while retaining the existing internal stairs at the front of the buildings.

(2) Construction of two new multi-unit residential buildings comprising:

- **Building A**: located to the rear of the Delaney Building, this building is a part-5 and part-6 building containing 33 x 1 bedroom 14 x 2 bedroom and 7 x 3 bedroom units. It includes two wings on the eastern and western sections of Building A extending northwards to link with the Delaney Building and creating an enclosed central courtyard between the two buildings
- **Building B**: located to the rear of the Heffron Building, this building is a part-5 and part-6 building containing 21 x 1 bedroom, 13 x 2 bedroom and 11 x 3 bedroom units

Carparking is provided in a basement level which extends into two levels under Building B containing a combined 200 car spaces. The basement levels also contain storage areas, plant rooms and bicycle spaces.

Vehicular access is provided via single driveway from Ewing Avenue, near the corner of Harvey Street. The proposal will also involve associated landscape works and utility service installation.

5. State Environmental Planning Policy No 1 Objections

Clause 20F Floor space ratios

The proposal seeks to vary a development standard contained with Randwick Local Environmental Plan 1998 being Clause 20C – Site specific development controls.

A maximum FSR standard of 1.2:1 (8403 sqm) is applicable to the subject site pursuant to Clause 20C (2) of the Randwick Local Environmental Plan 1998. The proposal will result in an FSR of 1.25:1 (8737 sqm).

The applicant has submitted an objection under State Environmental Planning Policy No.1 - Development Standards, and has argued that strict compliance with Clause 20F of Randwick LEP is unreasonable and unnecessary. Principles for assessing SEPP 1 Objections have been established in the NSW Land and Environment Court case*, Wehbe v Pittwater Council [2007] NSWLEC 827*. The case has established that the upholding of a SEPP 1 objection is a precondition which must be satisfied before a proposed development can be approved by the consent authority. The principles established in *Wehbe v Pittwater Council* are addressed in the assessment of the applicant's current SEPP 1 Objection:

Matter 1
The Court must be satisfied that "the objection is well founded" (clause 7 of SEPP 1). The objection is to be in writing, be an objection "that compliance with that development standard is unreasonable or unnecessary in the circumstances of the case", and specify "the grounds of that objection" (clause 6 of SEPP 1).

The stated purpose of the maximum FSR standard as outlined in the LEP is:

> "*To provide for controls in relation to the size, scale and site coverage of development on land the subject of a built form control map inset."*

The applicant has submitted the following arguments in support of the SEPP1 Objection:

The proposed development of additional floor space on the site satisfies the purpose of the FSR controls, as follows:

- The marginal additional FSR proposed as part of the application does not result in inappropriate bulk on the site.
- There will be no potentially adverse impacts on nearby or adjoining development as a result of the additional floor space.
- There will be sufficient separation between the buildings on the site so that the additional floor space will not overshadow adjoining development and will allow natural ventilation to be maintained.
- No significant views will be impeded and the privacy of adjoining buildings will not be impacted by the additional floor space.
- The increase in FSR does not result in a reduction in landscaping for the site, which at 50% of the total site area greatly exceeds the 30% minimum requirement in the LEP 1998.
- The additional floor space on Building A is a lateral extension of the existing upper floor level on the western portion of the building and will not result in any significant increase in building bulk.
- In relation to Building A the extension of the upper floor level retains the stepped form of the building as an expression of the natural topography.
- The rooftop addition to Building B results in a more balanced form, which is more in keeping with the symmetry in the architecture of the surrounding heritage buildings.
- The impact of the proposed development on the Heffron and Delaney Buildings has been assessed in the Statement of Heritage Impact lodged with the development application and has been found to be acceptable.

Clause 7 of SEPP 1 requires that approvals under SEPP 1 be consistent with the aims and objectives of SEPP 1. These relate to allowing flexibility in the application of standards, that strict compliance is unreasonable or unnecessary, and that compliance would hinder attainment of objects of the Environmental Planning and Assessment Act, specifically Section 5 (a)(i) and (ii). These objects relate to encouraging ... *proper management, development and conservation of natural and artificial resources ... cities and towns ... for the purpose of promoting social and economic welfare of the community and a better environment*, and ... *the promotion and coordination of the orderly and economic use of development of land.*

Proper management, development and conservation and *the orderly and economic use of development of land* are best demonstrated by the achievement of the planning policies for the site and precinct generally. The additional floor space above the FSR control achieves this in the following ways.

- It achieves a high quality architectural and urban design solution.
- It generally complies with all other DCP controls such as building design, parking and access, communal and private open space, visual and acoustic privacy and energy efficiency.

The matters to be taken into consideration under Clause 8 of SEPP 1 confirm the unnecessary and unreasonable nature of the standard in this instance.

Non-compliance with the FSR control does not raise any matter of significance for State or regional environmental planning. In fact the additional floor space is consistent with metropolitan planning strategies by encouraging increased densities.

No public benefit issues are adversely affected by the proposed development exceeding the FSR control. The proposal has been designed to minimise impact on neighbouring developments and the public domain. In summary, the non-compliance of the FSR is only 4%. It is concluded that as the development proposal complies with the purpose of the standard and non-compliance will not result in detrimental impacts to adjacent development, the variation requested is appropriate and should be approved.

For these reasons strict compliance with clause 20C(2) is unreasonable, unnecessary and would not, in this particular case, result in any better achievement of the aims of the SEPP or the Act. Therefore, it is requested that the consent authority recognise the validity of this case and support this SEPP 1 objection.

It is considered that the proposal is satisfactory and compliance with the development standard is unreasonable and unnecessary for the following reasons:

- **The excess floor area arises primarily in the part six storey portions of Buildings A and B and the wing sections of Building A extending to the adjoining heritage building, the Delaney Building. The potential for the non-compliance to result in an undesirable and bulky built form is unlikely as both Buildings A and B predominantly comply with the 5 storeys height standard with the non-compliant 6-storey component restricted to the central sections of the two buildings where the fall in the slope of the land dictates this storey height. However, the part 6 storey components will be relatively imperceptible from the street as these are stepped and setback from the main building lines to reduce their visual impact. Similarly, the wing sections of Building A will not be visually dominant or intrusive as it will be recessed between the higher builtforms of the Building A and the Delaney Building; and it will have a lower height than Building A and the Delaney Building with a massing and design that matches and complements the Delaney Building (see Figure 1 below).**

Figure 1**: Building A (darker colour in the background) and Delaney Building linked by the lower recessed wing element in the centre.**

- **When compared with the maximum FSR control of 1.2:1, the additional floor area amounts to 334 sqm which as indicated above is distributed primarily in the stepped low scaled part six storey portions of Buildings A and B, and the low keyed wing sections of Building A. This numerical non-compliance is not considered to translate to a perceptibly bulky, excessively scaled structures or buildings that do not relate appropriately with the context of the surrounding development and natural environment. Nor will the proposal have a bulk and scale that would be visually intrusive in the existing coastal and heritage setting. Rather, the proposed buildings will generally occupy the designated permissible footprint in the DCP (thus providing for adequate open space at ground level both privately for individual dwellings and in common as a central courtyard/corridor). And have a height bulk and scale that is consistent with other new multi-storey apartment buildings in the Prince Henry Site.**

- **The proposal complies with the minimum 30% (of site area) landscaped area requirement of the Randwick LEP, providing for 46% of site area as landscaped area. The compliant landscape treatment will provide adequate areas for landscaping which will mitigate the bulk and scale of the proposed development to the extent that it will allow for a quality landscape treatment that appreciates the existing heritage buildings whilst creating a distinctive treatment for the new residential component as well as creating functional and useable spaces for future residents.**

- **The proposal will have an architectural design comprising primarily a built form that crucially will strengthen the streetscape and edge along Brodie Avenue, Harvey Street, Fleming Street and Ewing Avenue as envisioned in the Prince Henry Master Plan/Deemed DCP and Prince Henry DCP. Buildings A and B have been designed to reduce their apparent scale and respond to the contextual character, including a well modulated framed bay design containing recessed balconies and recessed flat pavilion roof-forms. Additionally, the proposal exceeds the minimum landscape area requirements for the site which will assist in softening the two buildings.**

- **the proposal will maintain adequate levels of amenity for the proposed development especially in terms of solar access, ventilation and landscaping.**

- **the new buildings will not have an adverse impact on the amenity of adjoining and neighbouring properties in terms of solar access, privacy and views (see Section 10 below).**

- The proposed development will be consistent with planning objectives for the locality in that:
  1. It fulfils the Masterplan principle contained in the Prince Henry Masterplan (Section 5.5 page 10), namely to

     - Create a new residential and community precinct within a site of natural beauty and heritage significance
     - Retain openness and well-being felt by people on the site which is so dominated by the natural elements of open sky, sea and coastal winds.
     - New building faces generally to be parallel to street alignments.

  2. It will promote the redevelopment of the Prince Henry Site, specifically in this case, for multi-unit housing in Lot 55 to form an appropriate medium to high density built form and massing which will integrate well with the adjoining heritage significant redevelopments of the Heffron Building and Delaney Building.

  3. It will implement the amended Prince Henry DCP Precinct P3 Objectives (Section 7.3, page 57) namely *"To ensure that the bulk, scale and design of new development* complements *adjacent heritage buildings"* and *"To encourage a mix of housing types"*. The FSR control in question is a development standard contained in the Randwick LEP 1998.

In conclusion, the proposal has adequately addressed the consistency of the proposed development with the underlying and stated purposes of the standard and the local planning objectives for the locality and objectives of the Act. The SEPP 1 objection has been provide that appropriately justifies that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

Matter 2
The Court must be of the opinion that "granting of consent to that development application is consistent with the aims of this Policy as set out in clause 3" (clause 7 of SEPP 1).

The aims and objects of SEPP 1 set out in clause 3 are to provide "flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the Act". The last mentioned objects in section 5(a)(i) and (ii) of the Act are to encourage:

"(1) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
(2) the promotion and coordination of the orderly and economic use of developed land."

The variation from the FSR control is consistent with the aims of the SEPP No.1 because it would not detract from the objects of the Act under Section 5 (a) (i) and (ii) in that the resultant development would promote the orderly use and development of the subject land because

- it will have a height, bulk and scale that will not detract from the predominant existing character of its specific location containing predominantly medium to high density residential development forming part of the emerging redevelopment of the Prince Henry Site.

- it will create additional floor area that will not negatively impact upon the amenity of adjoining and surrounding uses in terms of privacy, solar access, views and visual bulk and scale impacts.

Matter 3
The Court must be satisfied that a consideration of the matters in clause 8(a) and (b) of SEPP 1 justifies the upholding of the SEPP 1 objection. The matters in clause 8(a) and (b) are:

"(a) whether non-compliance with the development standard raises any matter of significance for State or regional environmental planning, and
(b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument".

The proposed development and variation from the development standard do not raise any matters of significance for State or regional environmental planning. The strict adherence to the numerical standard will not be necessary, in this case, for maintaining the low to medium density housing forms in the locality, including dwelling houses and semi-detached housing in the vicinity of The Spot business centre, where such development does not compromise the amenity of surrounding residential areas and is compatible with the dominant character of existing development.

Ways of establishing that compliance is unreasonable or unnecessary

Preston C J expressed the view that an objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways:

First *The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. If the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary and unreasonable.

Comments:

As discussed above, strict compliance with the development standard is unreasonable and unnecessary for the proposal to achieve the objectives of the development standard.

Second — *A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*

Comments:

The underlying objective or purpose of the standard is relevant to the subject development.

Third — *A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*

Comments:

Compliance would, in this case, be unreasonable as the underlying objectives of the standard is achieved.

Fourth — *A fourth way is to establish that the development standard has 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.*

Comments:

The maximum FSR development standard has not been abandoned or discarded by any decision or actions of Council.

Fifth — *A fifth way is to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

Comments:

The existing Residential 2B zoning is not considered to be inappropriate for the locality, which is characterised by low to medium density residential development.

Clause 20G Building Heights

The proposal seeks to vary a development standard contained within RLEP 1998 (Consolidation). A SEPP 1 objection has been submitted to Council.

The maximum storey, wall and building height standards are prescribed in Clause 20C (4) of the Randwick Local Environmental Plan 1998 and the proposal varies from these standards as follows:

Control	Requirement	Proposal	Complies
Maximum number of storeys	Building A: Maximum 5 storeys Building B: Maximum 5 storeys	Building A: Maximum part-5 and part-6 storeys Building B: Maximum part-5 and part-6 storeys	No (SEPP 1 Objection submitted) No (SEPP 1 Objection submitted)
Maximum Wall Height	Building A: Maximum 17m Building B: Maximum 17m	Building A: Maximum 18m Building B: Maximum 18.5m	No (SEPP 1 Objection submitted) No (SEPP 1 Objection submitted)
Maximum Building Height	Building B: Maximum 18m	Building B: Maximum 18.5m	No (SEPP 1 Objection submitted)

In assessing the applicant's SEPP 1 objection, the principles established from the NSW Land and Environment Court case, Wehbe v Pittwater Council [2007] NSWLEC 827 have been addressed. The case has established that the upholding of a SEPP 1 objection is a precondition which must be satisfied before a proposed development can be approved by the consent authority:

Matter 1
The Court must be satisfied that "the objection is well founded" (clause 7 of SEPP 1). The objection is to be in writing, be an objection "that compliance with that development standard is unreasonable or unnecessary in the circumstances of the case", and specify "the grounds of that objection" (clause 6 of SEPP 1).

- **Comments:**
  The stated purpose of the storey, building and wall height standard as outlined in the LEP is:

  "*To provide for controls in relation to the size, scale and site coverage of development on land the subject of a built form control map inset."*

The applicant has submitted the following arguments in support of the SEPP1 Objection:

The proposed variation of the building height development standard on the site satisfies the purpose of the building height control.

Although the proposal includes a marginal increase in floor space ratio (FSR) (also the subject of a SEPP 1 Objection, refer Section 1) this increase in FSR from 1.2:1 to 1.25:1 will not diminish the amenity of surrounding areas and still lead to a better development of the site.

The proposed building heights are generally consistent with those approved under DA530/2008, and these issues have been considered by Council previously.

The additional partial storey will not diminish the amenity of the surrounding areas as set out below.

- Both buildings will be located on the southern edge of the subject site and the Prince Henry Site. The subject buildings and the bushland to the south of the subject site will be separated by a road and there will be no overshadowing of the bushland as a result of the marginal additional height. The positioning of the buildings to the south of the subject site means there will be no overshadowing of adjacent buildings or loss of solar access to any adjoining properties.
- The additional partial storey on Buildings A and B will not impact on the amount of landscaped area on the site. 50% of the site area is landscaped which exceeds the minimum landscaped area required by the development standard in LEP1998 by 20%.
- The separation between the buildings means that there will be no additional impact on solar access or visual or acoustic privacy between the buildings.
- The significant views from the site are to the south. The proposed height would not lead to any additional view loss from the Delaney or Heffron Buildings that would not also be associated with a compliant proposal.
- In terms of visibility from the street, the height plane will follow the slope of the site. This will limit the impact of the additional height on both buildings. The site slopes from west to east falling some 7m across the full site (Lot 55). The non-compliance in Building A is a lateral extension of the 5 storey western side to a portion of the central part of the building. This will result in 6 storeys in a small area of the building. The additional partial storey will emphasise the stepped form of the building consistent with the fall of the land and will not be highly visible from the street.
- Building B will also follow the slope of the land, with a marginal exceedance of height and storey limit. Any potential impact on views will be minimised by the positioning of this bulk in the centre of the building rather than extending to the south-western and north-western extremities.

Clause 7 of SEPP 1 requires that approvals under SEPP 1 be consistent with the aims and objectives of SEPP 1. These relate to allowing flexibility in the application of standards, that strict compliance is unreasonable or unnecessary, and that compliance would hinder attainment of objects of the Environmental Planning and Assessment Act, specifically Section 5 (a)(i) and (ii). These objects relate to encouraging … *proper management, development and conservation of natural and artificial resources … cities and towns … for the purpose of promoting social and economic welfare of the community and a better environment*, and … *the promotion and coordination of the orderly and economic use of development of land.*

Proper management, development and conservation and *the orderly and economic use of development of land* are best demonstrated in that the development will achieve a high quality architectural and urban design solution without any additional environmental impacts as a result of the additional height.

The matters to be taken into consideration under Clause 8 of SEPP 1 confirm the unnecessary and unreasonable nature of the standard in this instance.

Non-compliance with the height control does not raise any matter of significance for State or regional environmental planning. The additional building height is consistent with metropolitan planning strategies by encouraging increased densities.

No public benefit issues are adversely affected by the proposed development exceeding the building height control. The proposal has been designed to minimise impact on neighbouring developments and the public domain.

It is considered that the proposal is satisfactory and compliance with the development standard is unreasonable and unnecessary for the following reasons:

- The breaches in wall and building height occur on the top floor level, being the part 6th storey portion of both Buildings A and B. The breaches occur primarily as a result of the topography of the site, being that, in the case of Building A, the land falls some 4m from the western end of this building to Ewing Street and a further cross fall of about 2m towards the Delaney Building. Building B is located on a more elevated section of the subject site than Building A with a cross fall diagonally of about 3m across this part of the site. Therefore, in seeking to address the variable nature of the sites topography, the breaches in wall and building heights have been designed to be localised in the respective part 6th storey portions of Building A and B, which reads as a gentle stepped element in the built form and setback from the main building lines so that, from street level, the increase in height will appear non-intrusive and from some perspective, imperceptible (see Figure 2 below).

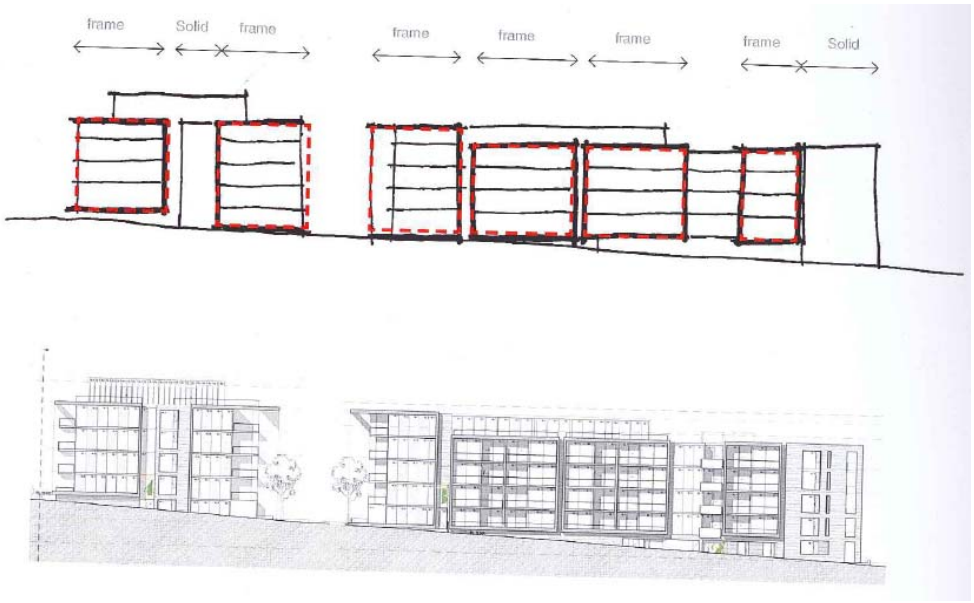

Figure 2: Massing diagram indicating the gentle stepped nature of the part 6 storey components of Building A and B as it traverses the fall of the site west to east along Harvey Street.

- The extent of the storey height non-compliances are relatively minor and only occur in localised sections of the two buildings where the gradient of the subject site does not allow complete compliance. For Building A, the breach in storey height extends for a length of 13m (approximately 19 per cent) of the total east-west length of 67m. For Building B, while the storey height breach occurs for a longer length of 25m (approximately 64 per cent) of the total north-south length of 39m, it will only be visible as 6 storeys internally from within the site (that is, because of the difference in grade, Building B presents as a part-6 storey building only when viewed internally within the site but presents completely as 5 storeys all along Brodie Avenue). Furthermore, in terms of absolute height, only Building B breaches the maximum 18m building height, and even so, minimally, at an additional 500mm. The minor and localised nature of the non-compliance is such that any requirement for compliance will not result in a built form that would be contrary to the planning objectives for the locality as discussed further below.
- When compared with the maximum Building Height control of 18m for both lots 54 and 55, Building A will in fact comply with the control and Building B will only minimally exceed the maximum building height control by 500mm and yet remain

lower than its neighbouring heritage building, the Heffron Building. Accordingly, the building height of the proposal will be consistent with the intended height, bulk and scale envisaged under the Randwick LEP and the DCP.

- Any requirement to delete the areas in breach of the height control will be of no significant benefit in terms of reducing visual bulk and scale of the buildings and the amenity of adjoining and surrounding properties primarily because of the minor localised and stepped nature of the additional height which reads as part of the overall design because it has followed the fall in natural topography consistently and competently. Figure 3 below shows the gentle stepping nature of Building A viewed from the corner of Harvey and Ewing Street with the additional 6 storey height virtually imperceptible at street level. Accordingly, the potential for the non-compliances in Buildings A and B to result in an undesirable built form is unlikely as the proposal exhibits a thoughtful design that implements an appropriate degree of articulation and facade treatment that breaks and ameliorates the built form's presentation to the three street frontages (Brodie Avenue on the western side, Harvey Avenue on the southern side and Ewing Avenue on the eastern side). Overall the proposal, will provide a positive contribution to the developing streetscape and will not adversely impact the heritage buildings located to the north of the subject site

Figure 3 : Photomontage of Building A viewed from the corner of Harvey and Ewing Street at street level. Note also the recessed winged section (right) linking to the Delaney Building (far right).

- The proposed development will be consistent with planning objectives for the locality in that:

  1. It fulfils the Masterplan principle contained in the Prince Henry Masterplan (Section 5.5 page 10), namely to

     - Create a new residential and community precinct within a site of natural beauty and heritage significance
     - Retain openness and well-being felt by people on the site which is so dominated by the natural elements of open sky, sea and coastal winds.
     - New building faces generally to be parallel to street alignments.

  2. It will promote the redevelopment of the Prince Henry Site, specifically in this case, for multi-unit housing in Lot 55 to form an appropriate medium to high density built form and massing which will integrate well with the

adjoining heritage significant redevelopments of the Heffron Building and Delaney Building.

3. It will implement the amended Prince Henry DCP Precinct P3 Objectives (Section 7.3, page 57) namely *"To ensure that the bulk, scale and design of new development* complements *adjacent heritage buildings"* and *"To encourage a mix of housing types"*.

- The development meets the stated and underlying objectives of the height standard. As such it is unnecessary and unreasonable to enforce the height standard in the circumstances of the case.

- **The proposal will not compromise the amenity of surrounding residential areas in terms of privacy, solar access, views and bulk and scale impacts as indicated in relevant assessment sections of this report.**

In conclusion, the proposal has adequately addressed the consistency of the proposed development with the underlying and stated purposes of the standard and the local planning objectives for the locality and objectives of the Act. The SEPP 1 objection has been provided that appropriately justifies that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

Matter 2
The Court must be of the opinion that "granting of consent to that development application is consistent with the aims of this Policy as set out in clause 3" (clause 7 of SEPP 1).

The aims and objects of SEPP 1 set out in clause 3 are to provide "flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the Act". The last mentioned objects in section 5(a)(i) and (ii) of the Act are to encourage:

> *"(1) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
> *(2) the promotion and coordination of the orderly and economic use of developed land."*

The variation from the maximum building and external wall height control is consistent with the aims of the SEPP No.1 because it would not detract from the objects of the Act under Section 5 (a) (i) and (ii) in that the resultant development would promote the orderly use and development of the subject land because

- it will have a height, bulk and scale that will consistent with other development in the street and the wider Prince Henry Site,
- it will create additional storey, building and external wall height that will not negatively impact upon the amenity of adjoining and surrounding uses in terms of privacy, solar access, views and visual bulk and scale impacts.

Matter 3
The Court must be satisfied that a consideration of the matters in clause 8(a) and (b) of SEPP 1 justifies the upholding of the SEPP 1 objection. The matters in clause 8(a) and (b) are:

"(a) whether non-compliance with the development standard raises any matter of significance for State or regional environmental planning, and
(b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument".

The proposed development and variation from the development standard do not raise any matters of significance for State or regional environmental planning. The strict adherence to the numerical standard will not be necessary, in this case, for maintaining the low to medium density housing forms in the locality, including dwelling houses and semi-detached housing within the heritage conservation especially around The Spot, and the like, where such development does not compromise the amenity of surrounding residential areas and is compatible with the dominant character of existing development.

Ways of establishing that compliance is unreasonable or unnecessary
Preston C J expressed the view that an objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways:

First — *The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. If the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary and unreasonable.

Comments:

As discussed above, strict compliance with the development standard is unreasonable and unnecessary for the proposal to achieve the objectives of the development standard.

Second — *A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*

Comments:

The underlying objective or purpose of the standard is relevant to the subject development.

Third — *A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*

Comments:

Compliance would, in this case, be unreasonable as the

underlying objectives of the standard is achieved.

Fourth — *A fourth way is to establish that the development standard has 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.*

Comments:

The maximum building and external wall height development standard has not been abandoned or discarded by any decision or actions of Council.

Fifth — *A fifth way is to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

Comments:

The existing Residential 2B zoning is not considered to be inappropriate for the locality, which is characterised by low to medium density residential development.

6. NOTIFICATION / ADVERTISING

The subject application was advertised and notified as integrated development from 19 January 2011 to 18 February 2011 in accordance with Development Control Plan – Public Notification of Development Proposals and Council Plans and the EPA Act 1979.

Council has received 1 submission in response to the notification/advertising of the DA which raised concerns regarding the number of dwelling units in excess of that provided for under the Master Plan. This issue is addressed in Section 9 below where, under the terms of the Deed of Agreement for the Prince Henry site at Little Bay, Council is entitled to charge a Section 94 contribution in respect of dwelling units in excess of that prescribed in the Master Plan, LEP and/or the DCP. A condition to this effect will be applied should approval be granted for the subject development.

7. TECHNICAL OFFICER AND EXTERNAL COMMENTS

Development Engineering Comments
The development application was referred to Council's Development Engineering Department primarily in relation to stormwater drainage and landscaping. No objection is raised to the proposed development subject to conditions of consent.

Building Services and Environmental Health Comments
The development application was referred to Council's Building Services and Environmental Health sections. No objection is raised to the proposed development subject to conditions of consent.

Heritage Comments

Council's Heritage Planner advises that as follows:

"Background
The subject site is located within the Prince Henry Hospital Heritage Conservation Area under Randwick Local Environmental Plan Amendment No.28. The site and a number of the buildings are listed on the State Heritage Register for its Aboriginal, natural, landscape and built heritage values.

The site has been the subject of a Conservation Management Plan (CMP), Archaeological Management Plan (AMP) and Heritage Impact Assessment carried out by Godden Mackay Logan (GML) in conjunction with the preparation of a Master Plan for residential use of the former hospital site.

The Subject Site
The site is in the southern part of the development area. The site has a northern boundary to Fleming Street, and eastern boundary to Darwin Avenue and Ewing Avenue, a southern boundary to Harvey Street and a western boundary to Brodie Street. The subject site is generally located within the Historic Precinct as identified in the Prince Henry Site Development Control Plan, with the south western corner within Precinct P3.

Heritage element	***Applies***
Built elements in the vicinity	• *Flowers Ward 2* • *Flowers Ward 4* • *Flowers Ward 6* • *Significant road alignment*
Landscape elements in the vicinity	• *Matures species of banksias integrifolia* • *Landscape, Curtilage and Setting of above* • *Views to Little Bay, Headlands and Coastline*
Aboriginal archaeological zone	*High Sensitivity*
Aboriginal identified site	*No*
Historical archaeological zone	*Former Prince Henry Hospital Complex*
Historical identified site	*No*
Little Bay Geological site	*No*
Remnant native vegetation in the vicinity	*Yes*

Existing Structures
The Heffron Building (Medical Ward A Block) occupies the northern part of the subject site, while the Delaney Building (Medical Ward B Block) occupies the southern part of the site. The buildings date from the 1930s. Each of the buildings is 3 storeys high over basement service areas) and originally comprised a main north facing wing with three perpendicular rear wings projecting southwards. The Delaney Building retains its main wing only. External changes to each of the buildings include glazed enclosures to the front verandahs, while internal changes include installation of partitioning. Each of the buildings has a central north facing entrance with associated steps, retaining walls and planter boxes. The Conservation Management Plan for the site identifies the buildings as having high significance and makes to following recommendations:

- *Retain and conserve with potential for residential use.*

- *Carry out urgent maintenance*
- *Implement maintenance strategy.*
- *Undertake archival recording prior to any works*
- *Prepare Specific Elements Conservation Policy*
- *Long Bay Gaol Ward at rear of Delaney Building may be removed.*

Background

DA/530/2008 for adaptive reuse of the Heffron and Delaney Buildings for residential purposes and the construction of two new multi-unit housing buildings at the rear was approved in May 2009. The main wing and central rear wing of the Heffron Building were to be retained with new rear wings to either side. New buildings were also proposed to the south and west of the original buildings with basement carparking below. The western building was to comprise six storeys, while the southern building was to comprise five storeys. The proposed adaptive reuse of the existing buildings included internal and external changes. Internally, it was proposed to remove a number of existing walls and to construct new walls. The existing internal stairs at the front of the buildings were to be retained, while other stairs and lifts were to be removed. Externally, it was proposed to reconstruct entrance detailing and to remove most of the existing glazed enclosures to the front verandahs and to provide them with new dividing screens. A new rear verandah was proposed to the Heffron building. Landscaping works were proposed around the buildings.

The Proposal

As compared to the previous proposal, the current proposal for adaptive reuse incorporates the following changes:

New buildings-

- *Changes the mix of residential apartments in the new buildings, providing a greater number of smaller apartments.*
- *Provision of two storey links between the rear of the Delaney Building and the new southern building.*
- *Changes to footprints, envelope and design character of new buildings.*

The new buildings step down to accommodate changes in ground levels and generally comprise five storeys with the top level set back from the line of the lower levels.

Heffron and Delaney-

- *Provision of additional apartments/bedrooms within in the roof volume of both buildings, involving provision of skylights and dormer windows.*
- *An additional apartment level is proposed to the new rear wings to Heffron Building.*

Submission

The original submission included a Specific Elements Conservation Policy (SECP) for the Heffron and Delaney Blocks and a Heritage Impact Statement (HIS) for the Southern Lots, both prepared by Otto Cserhalmi and Partners. The current application has been accompanied by a new Statement of Heritage Impact by Otto Cserhalmi and Partners.

The SECP provided a revised Statement of Cultural Significance which noted that the buildings provide physical evidence of the 1930s expansion of the hospital, are early examples of NSW Government Architect multi-storey ward pavilions showing a transition from the earlier ward block planning, and are early examples of Modern construction in Australia influenced by English and European hospital design. In terms of Grading of Significance, the SECP considered that the overall form of the buildings including the arrangement of wings, internal configuration of wards and core areas, original internal fabric around the central circulation spaces, and original external materials and detailing, are of an exceptional degree of significance, and that a number of elements of internal fabric are of high significance.

The new Heritage Impact Statement assesses the consistency of the proposed works with the guidelines contained in the SECP. The HIS notes that the proposal is designed to improve the economic viability of the development, thereby improving the conservation opportunities for the Heffron and Delaney building. The HIS considers that the modifications to the rear wings will not be visible in the main axial view of the Heffron and Delaney buildings and that the proposed new apartment buildings do not dominate the heritage buildings. The HIS concludes that overall the proposal has a positive heritage impact by providing continued use of the buildings.

Approvals

As Prince Henry is included on the State Heritage Register (SHR), any development generally needs to be the subject of an Integrated Development Application or a prior application under s60 of the NSW Heritage Act. As the NSW Heritage Office is the consent authority for the application, Council cannot issue approval until the Heritage Office has provided conditions of consent.

Site specific exemptions for the Prince Henry for new single residences and multi-unit residential buildings which comply with the Prince Henry site were gazetted in June 2005. Exemptions do not apply to development within the Historic Precinct however. As both the Heffron and Delaney buildings are within the Historic Precinct, it appears that Heritage Office consent is required.

Comments

The SECP provides conservation policies for conservation of significant fabric, design intention, internal configuration, adaptation and new work, and setting and plantings, which are relevant to the proposal. Conservation policies are also provided in relation to archaeological management, maintenance, interpretation and archival recording.

Internal Works

Included in the SECP are recommendations to retain evidence of internal configuration. The proposal removes the original configuration of the main ward and sanitary area, the main lift, the service lift, the secondary stairs at the ends and the rear of the buildings, and a number of internal walls to the core area and individual wards. The proposal retains however the relationship of the main wing to the front and rear verandahs, the cruciform plan central core, the main stair and a number of internal walls to individual wards. It is considered that the proposal retains reasonable evidence of the original internal configuration. ***Consent conditions should be included requiring the submission of further detailing indicating the retention of internal fabric including joinery and floor and wall finishes.***

External Works

The original proposal retained the original roof form and removed the later glazed enclosures to front verandahs, in conjunction with changes to the original French doors. The current proposal introduces skylights and dormer windows to the existing roof form.

In relation to the proposed skylights and dormers, the SECP includes a policy that an indication of the overall roof form be retained. To each existing building, the application proposes four skylights to the front plane of the roof, eight skylights to the rear plane of the roof, and a dormer window to each of the side roof planes to the rear of the existing parapet. To the Heffron building, the application proposes two skylights to the west side roof plane of the rear wing and a large dormer in the east side roof plane of the rear wing. It is considered that the proposed skylights and dormers will not dominate the existing roof form and that the proposal maintains the overall form, fenestration pattern, and external materials of the building. ***Consent conditions should be included requiring the submission of further detailing indicating the extent of original window and door joinery to be retained to the front elevation, including fanlights, and the design of new french doors.***

New rear wings to Heffron building

The Prince Henry Site Development Control Plan requires that the new side wings have a maximum height of three storeys. The original proposal included a three storey western side wing and a four storey eastern side wing. It was noted that the additional floor was provided below the main floor level. The current proposal includes additional floor space above the eaves level of the existing building. The new floor will have a roof height to match to ridge of the main wing, but below the ridge of the rear wing and will have a minimal length as compared to the existing central rear wing. There are no heritage objections to the proposed additional floor.

New buildings

The DCP requires a maximum height of five storeys for the new buildings to the south and west of the Delaney building. The new building to the south (Building A) is to comprise five storeys and complies with the DCP height control. The new building to the west (Building B) is to have a height of five levels plus an additional sixth level set back from the line of the walls below. The new Building A will be around one level higher than the eaves of the Delaney Building while the new Building B (excluding the top level) will be around two levels higher than the eaves of the Delaney Building. Building B is reasonably well separated from the Delaney building, and screened by proposed landscaping. Building A will be dominant in relation to the rear and side elevations of the Delaney building, but will not be prominent in primary views of the front elevation.

Landscape Works

The SECP for the Heffron and Delaney buildings suggests that the formal approach to each of the buildings be reinstated as well as the austere character of their curtilage to allow clear views to and from the buildings. The SECP also suggests that the axial view of the Delaney building be reinstated, including garden beds and symmetrical planting seen in early aerial photographs. The DCP indicates the landscape significance of the mature species of banksia integrifolia in front of each of the buildings, as well as the importance of the axial views towards the entrances along Curie Avenue and Darwin Avenues. The current application proposes retention of only one existing banksia near the north eastern corner of the Heffron building, and the removal of several others and replacement of a number with the same species. The sides and rear of the new and existing buildings are to be provided with heavy screen planting. It is noted however that the proposed landscape works will preserve the openness and visibility of the front elevations of the buildings.

Maintenance

The SECP requires that a maintenance plan be prepared for the Heffron and Delaney buildings setting out the frequency of inspections for significant fabric, its recommended life span and appropriate replacement materials.

Interpretation

The SECP requires that the construction use and naming of the medical words be interpreted using surviving archival records and suggests that the circulation spaces of the building could be used to display aerial photographs and photographs of the buildings under construction.

Archival Recording

The SECP requires that a thorough arrival recording be undertaken prior to commencement of any modifications, including original and as-built plans and detailed photographs of areas proposed for demolition.

Archaeological Management

In relation to archaeological management, the SECP provides recommendations that all works requiring that ground disturbance take into account procedures and requirements contained in the archaeological Management Plan for the site.

Recommendations

The following conditions should be included in any consent in addition to any conditions provided by the NSW Heritage Office."

External Authority Comments

The Heritage Council of NSW has raised no objections to the proposal in relation to potential dewatering of the subject site and has issued its General Terms of Approval on 16 March 2011 which will be applied as condition of consent.

The application was referred to the Sydney Airport Corporation Limited as the proposed height of the building would potentially result in permanent penetrations into controlled airspace which requires approval under the Airports (Protection of Airspace) Regulations 1996. No objections have been raised by SACL subject to relevant conditions.

The application was referred to the NSW Police in relation to Crime Risk Assessment and measures to achieve Crime Prevention Through Environmental Design (CPTED). No objections have been and conditions will be applied to address relevant requirements.

8. RELEVANT ENVIRONMENTAL INSTRUMENTS

The subject site is zoned Residential 2D. The proposal is permissible with development consent.

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

Clause 12A - Zone No 2D (Residential D – Comprehensive Development Zone)
Clause 20C – Site specific development controls
Clause 20D - Traffic and transport measures in Zone 2D
Clause 40 - Earthworks
Clause 40A - Site specific development control plans
Clause 42B - Contaminated land
Clause 43 - Heritage conservation

Additionally, the following statutory controls apply in the assessment of the proposed development:

1. State Environmental Planning Policy (Major Development) 2005
2. State Environmental Planning Policy No. 55 – Remediation of Land
3. State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
4. State Environmental Planning Policy (Building Sustainability Index BASIX) 2004

An assessment of the proposed development under the planning controls is provided in section 10 below.

9. POLICY CONTROLS

Development Control Plan – Prince Henry Site

The table below assesses the proposal against relevant controls of the DCP – Prince Henry Site.

DCP Control	Proposal
4.1 BUILDING ENVELOPE	The new apartment blocks A and B will be subject to SEPP 1 Objections for variations to the maximum FSR, and wall and building height controls as assessed in Section above.
i New buildings must comply with the requirements in the Built Form Control Table (Figures 6-7, Part 2) and the building envelopes indicated in Part 7 – Precinct Controls of DCP.	
4.2 HEIGHT	
i The external wall height of a building must not exceed the maximum wall height for that lot indicated in the Build Form Control Table (Figures 6-7, Part 2)	The new apartment blocks A and B will have maximum wall heights of 18 and 18.5m respectively which exceeds the 17m wall height controls in the *Build Form Control Table.* SEPP 1 Objections have been lodged and assessed in Section 5 above.
ii No of storeys in any building does not exceed the number shown in relevant Precinct Control diagram and Built Form Control Table	No change in storey levels for Heritage buildings. Part-5 and part-6 storeys for Buildings A and B which varies from the *Built Form Control Table*
iii Minimum floor to ceiling height of 2.7m for habitable rooms in new buildings.	Minimum flor to ceiling 2.9m. Complies.
iii Earth filling only for and not access and infrastructure and landscaping and not for elevating buildings.	Complies
4.3 BUILDING DEPTH	
i Building depth to consistent with relevant Precinct Controls.	Complies. Building A will have consistent building depths with those in the Precinct Controls for the Historic Precinct and similarly for Building B for the Historic Precinct.
I Building depths to allow for dual aspect apartments.	58% of apartments have dual aspect.
4.4 DENSITY	
i Maximum FSR not to exceed FSR control indicated in the Build Form Control Table	The new apartment blocks A and B will have maximum FSR of 1.25:1 which exceeds the 1.2:1 FSR control in the *Build Form Control Table.* SEPP 1 Objections have been lodged and assessed in Section 5 above.
4.5 SETBACKS	
i Maximum FSR not to exceed FSR control indicated in the Build Form	The new apartment blocks A and B will have maximum FSR of 1.25:1 which

DCP Control	Proposal
Control Table	exceeds the 1.2:1 FSR control in the *Build Form Control Table.* SEPP 1 Objections have been lodged and assessed in Section 5 above.
ii New buildings to maintain significant views and heritage views and vistas as identified in Part 2.	The new Buildings A and B respect and maintain significant views and vistas to and from the Heffron and Delaney Buildings.
iii New buildings to be sited and designed to form a strong predominately continuous built edge to the primary street frontage and public parks and pathways.	Strong built edge proposed along all primary street frontages, especially along Harvey Street and Brodie Avenue.
4.6 BUILDING ARTICULATION	
i Building articulation is to be consistent with the articulation areas identified in the precinct specific controls in Part 7.	Building articulation for Buildings A and B generally will be consistent with those identified in the Precinct P3 and Historic Precinct controls. Variations are discussed in next row below.
ii New Building articulation must not extend forward of the identified building articulation area.	The new Buildings A and B will, in some minor parts fronting Harvey Street, extend forward of the identified building articulation area Street The breaches are localised in some isolated sections of buildings A and B which will not be visually intrusive as the predominant parts of these facades will comprise articulation elements especially balconies and weather protection devices).. The new Building A will have new wing elements that extend forward of the designated articulation area (see Historic Precinct Controls) to adjoin the Delaney Building and justifications have been provided in the design assessment and accepted by the Heritage Council including the lower height and scale of these wing extensions compared to the heritage buildings.
iii Building articulation should respond to the environmental conditions of the site including orientation, breezes and privacy.	Site Analysis indicates appropriate response to environmental conditions and context based on building depths and orientations that comply with those in the relevant Precinct Controls.
iv The maximum unarticulated building length is 9 metres along the primary street frontage and 10 metres along the secondary street frontages.	Complies as the new Buildings A and B are consistent with the articulation zones, building depths and orientations contained in the relevant Precinct Controls.

DCP Control	Proposal
v *Buildings are to be aligned predominately parallel to the street and provide a clear street address*	The proposal will be predominantly aligned to Fleming and Harvey Streets with adequate locations for clear street addresses.
vi *Building entries are to address the primary street frontage and should form an integral part of the façade.*	Complies, refer drawings in accompanying plans. Strong built edge proposed along all primary street frontages, especially along Harvey Street. Clear building entries proposed to each apartment building.
vii *All facades, including rear facades, must include windows.*	All facades will have windows.
viii *Multi-unit developments must provide street entrances to at least 50% of units that face the street or public open space.*	Retained heritage buildings and slope of land limit extent of individual entries facing street but primary building entries oriented to main street frontages.
ix *A min of 30% and max 60% of building articulation area for the building may be used.*	Minor non-compliance due to proposed wing additions to Building A & Delaney. Proposed additional wings enclose a central courtyard space and improve amenity of apartments.
x *Up to 30% of building articulation of any floor on any façade may comprise lifts, stairwells and associated lobby space.*	Complies. No lifts and stairwells in Buildings A and B will encroach the designated articulation areas as these are all internalised. New lift shaft to the adapted Delaney Building will be less than 30% of the applicable articulation area.
xi *Up to 20% of the articulation of any floor on any façade may comprise glazed stairwells and lobby space.*	Complies. No stairwells or lobbies in Buildings A and B will encroach the designated articulation areas as these are all internalised.
xii *Large areas of glazing should be modulated by louvres, fins or the like.*	Glazed opening predominantly screened with louvers and framed within cantilevered bay frames acting as weather protection.
xiii *Windows and other glazing must be set back from the structure by a minimum of 80mm.*	Complies for all windows in Buildings A and B.
xv *Grilles and transparent shutters are to have a minimum 70% transparency. Solid roller shutters, screens or grilles on… dwellings are not appropriate.*	No shutters or grilles proposed on dwellings.

DCP Control	Proposal
4.7 LANDSCAPED AREA & PRIVATE OPEN SPACE	
a) General	Landscape plan prepared by AECOM.
i A Landscape Plan, prepared by a suitably qualified professional, must be submitted as part of DA.	
ii Landscaped area on each site must not be less than the minimum percentage indicated in the Built Form Control table (Figures 6-7, Part 2): *Delaney A and B: Min 30% %*	Complies. 46% landscape area proposed
iii Soft landscaped area on each site must not be less than the minimum percentage indicated in the Built Form Control table (Figures 6-7, Part 2) Delaney A and B: Min 20%	Complies. 35% soft landscape area proposed.
iv At least two-thirds of area occupied by external car parks, driveways, courtyards, pathways and the like are to be laid with porous paving. Areas above underground parking and driveway ramps steeper than 1 in 10 are excluded from the calculation for this requirement.	Complies
c) Apartments	Each apartment has deck, balcony or courtyard/terrace.
i Each apartment should have at least one balcony or courtyard area directly accessible from the living area.	
ii Min balcony depth for new buildings 2.4m	Minimum balcony depth is 2.2m, which is a minor variation and consistent with SEPP 65.
iii Min area for main balcony: *Dwelling size up to 60m2: 10m2* *Dwelling size more than 60m2: 12m2*	Generally complies. Any non-compliance is negligible and due to heritage constraints (adaptive reuse of Heffron wings) or to provide adequate size unit while maintaining required setbacks.
iv Main balcony must: *be located adjacent to principal living area* *be sufficiently large and well proportioned to promote indoor/outdoor living* *be able to accommodate dining table and chairs* *include sun screens, pergolas, shutters, operable walls, where appropriate*	Complies.

DCP Control	Proposal
v Balconies should be north facing where possible	Complies.
vi Additional balconies may be provided including Juliet and French balconies	Complies.
vii Balconies must not be so deep that they stop sunlight entering lower apartments in a building.	Complies.
viii Continuous wrap-around balconies are not appropriate	Not proposed – corner terraces on Buildings A & B are not continuous around entire building. Noted.
ix For adaptive reuse of heritage buildings for residential development refer to CMP SECP for guidance on provision of private open space	CMP/SECP applied.
4.8 LANDSCAPE DESIGN AND BIODIVERSITY	
i Landscaping must include a predominance of: - *native plant species (refer to Appendix A for appropriate species)* - *species that are drought resistant, and require minimal watering once established, or species with water needs that match rainfall and drainage conditions* - *water conserving landscape practices/ designs, including plant selection mulching, hydro zoning and multi storey planting* - *native ground covers and grasses in garden beds and path surrounds (turf is to be confined to useable outdoor areas)* - *where applicable, landscaping must be consistent with any relevant SECP or Plan of Management (POM).*	See Landscape Design Statement and Landscape Plan submitted generally apply these principles including selection of appropriate native plantings suitable for the location and assist in energy and water use reductions.
ii Landscape plans are to demonstrate how the design responds to site's microclimate to ensure that species survive and provide protection from	Addressed in Site Analysis in submitted Landscape Plans.

DCP Control	Proposal
wind and sun.	
iv Trees and shrubs are to be selected and positioned to maximise solar penetration in winter and minimise it in summer (eg deciduous plants on the north side of private open space).	Addressed in Site Analysis in submitted Landscape Plans.
v Pergolas and awnings should be located to shade external areas and control sunlight into buildings.	Some degree of shading of external areas and control sunlight penetration will be provided by medium size trees. However, glazing, especially on upper floors, will be screened by projecting balcony slabs, sliding louvred screens or large roof overhangs.
vi Landscape areas are to be contoured to encourage stormwater runoff to infiltrate to ground.	Addressed in Site Analysis in submitted Landscape Plans.
vii Garden irrigation and watering systems to be connected to rainwater storage facilities, where applicable.	Rainwater storage as part of stormwater concept plan for site. Refer to Water Management Plan in Appendix O.
viii Avoid planting that may obscure building entries or surveillance of street and pedestrian paths.	Plantings will not obscure building entries or surveillance of street and pathways.
ix Minimise impact of driveways through materials selection and appropriate screen planting.	Shrubs and ground cover planting will be applied to minimise the impact of driveways
x Garden structures such as gazebos, clothes lines, play equipment, swimming pools, and spa baths, are not permitted in front gardens. These structures and paved areas must be sited to avoid damage to existing trees and their root systems.	Garden structures not proposed in front gardens.
xi Landscaped areas must include an area dedicated to on-site composting of a size relevant to the number of dwellings and the landscaped area it serves.	Adequate areas will be available for composting purposes – condition to be applied.

DCP Control	Proposal
4.11 SOLAR ACCESS	Shadow diagrams lodged with DA and assessed in Section 10 below.
i Shadow diagrams, including elevations showing shadow impacts on any walls (and windows) of adjoining development and any remnant bushland, must be submitted with DA for all new buildings of two or more storeys.	
ii Dwelling orientation, siting, layout and landscaping are to ensure solar access to living areas and private open space, and maximise use of cooling breezes.	Dwelling orientation maximises solar access and natural ventilation.
iii Principal living room/s of a new dwelling must be designed to achieve not less than three (3) hours of sunlight between 9am and 3pm on 21 June.	66% of principal living rooms or balconies achieve 3 hours sunlight between 9am and 3pm on 21 June.
iv Residential re-use of existing heritage buildings should demonstrate that a reasonable level of solar access is provided, where it cannot meet the minimum requirements specified above.	Reasonable level of solar access provided within heritage constraints as indicated in submitted shadow diagrams.
v Sunlight access to at least 50% of primary private and communal open space area of adjoining properties must be achieved for at least 3 hours between 9am and 3pm on 21 June.	Building envelope and height ensures sunlight access of adjoining properties maintained.
vi Maximise north facing roofs on new buildings. Roof areas shall be appropriate size, orientation and pitch, suitable for the installation of solar collectors.	Roofs on new buildings are flat or gently sloping to reduce bulk and scale. No solar collectors on roof proposed.
7.6 HISTORIC PRECINCT	Proposed built form generally consistent with the Built form controls. Variations have been assessed as part of the SEPP 1 assessment above.
Built Form	
i Building heights, FSR and landscaped areas are to comply with the Built Form Control Table	
ii Max height of the extension to the Delaney Building (Lot 32) must not	Complies. Extensions to the Delaney Building will not exceed existing ridge

DCP Control		Proposal
	exceed the existing ridge height of the Delaney Building, with a min floor to ceiling height of 2.7m for all floors.	height of the Delaney Building.
iii	*New developments are to be in accordance with the policies contained within the CMP, Archaeological Management Plan (AMP), and any SECP.*	Complies. The Heritage Council and Council's Heritage Planners are satisfied that the proposal is consistent with eth provisions of the relevant CMP and SECP.
iv	*Development is to comply with the setbacks and 'match building alignment' controls identified on Figures 18-19.*	The new Buildings A and B will, in some minor parts fronting Harvey Street, extend forward of the identified building articulation area Street The breaches are localised in some isolated sections of buildings A and B which will not be visually intrusive as the predominant parts of these facades will comprise articulation elements especially balconies and weather protection devices).. The new Building A will have new wing elements that extend forward of the designated articulation area (see Historic Precinct Controls) to adjoin the Delaney Building and justifications have been provided in the design assessment and accepted by the Heritage Council including the lower height and scale of these wing extensions compared to the heritage buildings.
v	*Development to demonstrate that views (both from private and public domain) identified on Figures 18-19 are maintained.*	The proposal does not obstruct any designated view corridors identified in the DCP as assessed in Section 10 below.
ix	*The historically open character of the landscape in the precinct should be retained.*	The proposal largely adheres to the designated building footprints of the DCP. The wing sections of Building A are hidden behind the Delaney Building and therefore do not impede the historic open character of the precinct.

Section 10 below assesses the compliance of the proposal with the DCP – Prince Henry Site.

DCP – Parking

Compliance with the numeric controls of the DCP – Parking is assessed as follows:

USE	REQUIREMENT (DCP – Parking)	PROPOSED NUMBER AND/OR FLOOR AREA	REQUIRED PROVISION	PROPOSED PROVISION
	1 space per one bedroom dwelling	83 x one bedroom dwellings	83 spaces	
	1.2 spaces per two bedroom dwelling	50 x two bedroom + study dwellings	60 spaces	
	1.5 spaces per three bedroom dwelling	30 x three bedroom dwellings	45 spaces	
	Visitor: 1 space per 4 units	Total dwellings = 163	40.75 spaces	
TOTAL			**229 spaces**	**200 spaces**

Section 10 below assesses the parking provision in relation to the DCP.

Section 94 Contributions Plan

Section 94 Contributions are not payable for developments that meet the LEP's built form numerical controls (i.e. FSR). Clause 4.2 of the Deed of Agreement for the Prince Henry site at Little Bay entitles *Council "to review the Section 94 contribution situation for any subsequent development application in respect of a development lot or lots which exceeds the LEP's Built Form Numerical Controls for the development of that lot or lots prescribed in the Master Plan, LEP and/or the DCP."*

The proposal exceeds the maximum DCP FSR control of 1.2:1 by 0.05:1 which equates to an additional floor area of approximately 334 sqm. Based on the estimated cost of development provided for the proposed development, the additional floor area will incur an estimated cost of $1,253,567.90.

In view of the variation with the relevant built form numerical control and the additional floor area proposed, a 1% contribution is chargeable under Section 94A in accordance with Council's Section 94 contributions plan made effective on 2 July 2007, and a condition will be applied accordingly should approval be granted.

10. SECTION 79C CONSIDERATIONS:

The following sections summarise the assessment of the proposal in terms of the heads of consideration in Section 79C of the Environmental Planning and Assessment Act 1979.

(a) The provisions of:

(i) Any Environmental Planning Instrument

1. State Environmental Planning Policy (Major Development) 2005

The provisions of SEPP – Major Development 2005 apply to the proposed development as the capital investment value is in excess of $10 million. In accordance with the requirements of Clause 13B (1)(a) the submitted application is classified as 'regional development' with the determining authority for the application being the Joint Regional Planning Panel (Eastern Region). The submitted application is referred to the Joint Regional Planning Panel for determination in accordance with the applicable provisions of SEPP (Major Development).

3. State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 aims to promote the remediation of contaminated land for the purposes of reducing risk of harm to human health or any other aspect of the environment. In relation to the subject site, a site audit statement (SAS) has been issued on 12 July 2007 indicating that the site has been remediated in accordance with the relevant standards for residential development contained in the Contaminated Lands Management Act 1997 and as per Council consent 1188/02 as amended (for the demolition of buildings and the remediation of the Prince Henry site which was issued on 28 February 2003). Accordingly, the proposed development will satisfy the provisions of SEPP 55 and the site will be suitable for the intended use.

4. State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

State Environmental Planning Policy No. 65 aims to promote quality design of Residential Flat Buildings. The proposal is subject to the Policy as it involves development of a residential flat building being 3 storeys and more in height. The application also has been considered by Council's Design Review Panel (the Panel's comments are addressed in section below).

5. State Environmental Planning Policy (Building Sustainability Index BASIX) 2004

SEPP: BASIX applies to the proposed development. The development application is accompanied with BASIX Certificate numbered 350817M. The commitments listed in the above certificate will be imposed by appropriate standard conditions pursuant to Clause 97A of the Environmental Planning and Assessment Regulation 2000.

6. Randwick Local Environmental Plan 1998 (Consolidation)

The following relevant clauses of the Randwick LEP 1998 (Consolidation) apply to the proposal:

Clause 9 - Objectives

Clause 9 of RLEP 1998 requires Council to consider the aims of the LEP and Zone objectives prior to determining any DA on land to which the RLEP applies. The purpose of this Clause *is "To require the general aims of this plan and the specific objectives of each zone to be taken into account in the assessment and determination of development applications".* With reference to the general aims, the proposed development will not compromise the aims of the LEP in relation to heritage, aesthetic character, sustainability, environmental qualities and social amenity of the locality and contribute to the variety of housing types that does not compromise the amenity of the residential area, consistent with the specific zone objectives.

Clause 12A - Zone No 2D (Residential D – Comprehensive Development Zone)

The subject site is zoned Residential 2D under the Randwick Local Environmental Plan 1998 (Consolidation). The proposed development for multi-unit housing is permissible with Council's consent under the zoning provisions applying to the land.

The proposal is also consistent with the following relevant objectives of the Residential D zone:

(a) To allow the comprehensive redevelopment of land for primarily residential and open space purposes;

(b) To enable development that is consistent with a development control plan prepared in accordance with Clause 40A and approved by Council
(c) To enable residential development in a variety of density and housing forms, where such development does not adversely affect the amenity and function of surrounding areas.
(f) To encourage housing affordability.

In terms of objective (a) and (b), the proposal is a large scale development enabling a comprehensive redevelopment of the site within the Prince Henry area to be redeveloped for residential purpose largely consistent with the Prince Henry Site DCP which was prepared in accordance with principles outline in Clause 40A (previously Clause of the RLEP. In terms of objective (c), the proposed housing form comprises a good combination of adaptive re-use of two large heritage buildings with two large scale multi-unit housing buildings with minimal amenity impacts both internally and externally. Finally, referring to objective (f), the proposal will assist in housing affordability, by increasing the stock and supply of multi-unit housing in the locality thus putting downward pressure on demand for multi-unit housing.

Clause 20C – Site specific development controls

Clause 20C outlines the relevant standards applicable to land that are the subject of built form control map inset. The Prince Henry Site has an inset shown in the LEP map and marked "Inset 3 – Prince Henry Built Form Controls". Clause 20C states that the controls applicable to the subject site are as follows:

Control	Requirement	Proposal	Complies
Maximum FSR (on Lot 55, excluding the Delaney Building)	Maximum 1.2:1 (max 8403 sqm)	1.25:1 (max 8737 sqm ie., excess of 334 sqm)	No (SEPP 1 Objection submitted)
Maximum number of storeys	Building A: Maximum 5 storeys Building B: Maximum 5 storeys	Building A: Maximum part-5 and part-6 storeys Building B: Maximum part-5 and part-6 storeys	No (SEPP 1 Objection submitted) No (SEPP 1 Objection submitted)
Maximum Wall Height	Building A: Maximum 17m Building B: Maximum 17m	Building A: Maximum 18m Building B: Maximum 18.5m	No (SEPP 1 Objection submitted) No (SEPP 1 Objection submitted)
Maximum Building Height	Building A: Maximum 18m Building B: Maximum 18m	Building A: Maximum 18m Building B: Maximum 18.5m	Yes No (SEPP 1 Objection submitted)
Minimum Landscaped Area (% site area)	Minimum 30%	Total landscaped area for consolidated site 46%	Yes

Clause 20D Traffic and Transport measures in Zone 2D

Clause 20D requires relevant traffic or transport measures that may apply to land zoned 2D to be met in development proposal. A Traffic Management Plan has been submitted with the DA which basically indicates that the increase in traffic generation from the proposed development will be minor (in the order of approximately 70 to 85 vehicles per hour two-way during peak periods) which is not considered to have a significant traffic impact on the adjacent classified road network and intersections nor on the amenity of adjoining and surrounding.

Clause 40 Earthworks

Clause 40 of the RLEP contains provisions for undertaking of excavation and filling of land. The proposal will require earthworks to be undertaken to construct the common basement carpark of the proposed development and foundations for the buildings. Whilst this work will involve the excavation of three basement levels under Building B, and two levels under Building A, it will not result in any significant impact on the topography of the site, is unlikely to interrupt the drainage patterns of the site or result in soil instability and will not adversely impact upon the scenic quality of the site and locality. Accordingly, the proposal is acceptable in relation to the provisions of Clause 40.

Clause 40A Site specific development control plans

Whilst the subject site is significantly less than the 10,000 sqm land area that activates Clause 40A for a site specific development control plan to be prepared, it should be noted that the wider Prince Henry Site has been the subject of an earlier Master Plan, inclusive of the subject site, adopted by Council on 27 May 2003. The adopted Master Plan is now a Deemed DCP pursuant to amendments to the Environmental Planning and Assessment Act 1979 gazetted on 16 June 2005. The proposal is generally consistent with the Master Plan/Deemed DCP.

Clause 42B Contaminated land

Clause 42B contains provisions for remediation of contaminated land to ensure that such land will be suitable for the purpose for which development is proposed. As indicated above, the applicant has submitted a site audit statement (SAS) issued for the subject lot on 12 July 2007, indicating that the site has been remediated in accordance with the relevant standards for residential development contained in the Contaminated Lands Management Act 1997 and as per Council development consent No. 1188/02 as amended (for the demolition of buildings and the remediation of the Prince Henry site, which was issued on 28 February 2003). Accordingly, the site will be suitable for the intended use.

Clause 43 Heritage conservation

Clause 43, requires among other things, that Council consider the effect of proposed development on the heritage significance of heritage items and heritage conservation areas. Given its location within a Heritage Conservation Area, a Heritage Impact Statement (HIS) has been prepared by Otto Cserhalmi & Partners and lodged with the development application in accordance with Clause 43. Additionally, a *Specific Elements Conservation Policy (SECP) for the Heffron and Delaney Buildings has also been prepared by Otto Cserhalmi and Partners which was lodged with the previous approved DA (DA/530/2008). Both the HIS and the SECP have* been assessed by Council's Heritage Planner who has found that the proposal will be consistent with the provisions of the SECP and will not have any adverse amenity or streetscape impacts. In addition, Council has referred the proposal to the Heritage Council of NSW and the Council has advised that no objections are raised to the proposed development and GTAs have been issued dated 16 March 2011.

(ii) Any Draft Environmental Planning Instrument
No draft Environmental Planning Instrument applies in the assessment of the subject DA.

(iii) Any Development Control Plan
The Development Control Plan – Prince Henry Site and Development Control Plan – Parking apply to the proposed development. Compliance with these DCPs is outlined in Section 9 above and assessed as follows:

1. Prince Henry Development Control Plan

The proposal has been assessed in relation to the Prince Henry Development Control Plan. The amended DCP provides a framework for the redevelopment of the Prince Henry site containing performance criteria and controls to guide built form, provide environmental and amenity standards, and give appropriate heritage protection for the site both on a precinct-by-precinct basis as well as a general overview.

The proposal also has been assessed in relation to the Prince Henry Development Control Plan. The proposal complies with all the applicable precinct-specific controls of the DCP with the exception of the following:

- The proposal encroaches into the designated articulation zones in parts of Building A and B fronting Harvey Street.

- Building A has winged sections that extend forward of the required articulation zone towards the Delaney Building.

- The part 6 storey portion of Building A will be higher than the Delaney Building roof ridge.

These variations from the DCP controls have been assessed and found acceptable primarily having regard to the following:

- The encroachment of buildings into the articulation zones will be moderate in nature with the breaches localised in isolated sections of buildings A and B which will not be visually intrusive as the predominant parts of these facades will comprise articulation elements especially balconies and weather protection devices. Furthermore, in the case of Building B, the internal layout of living rooms seek to maximise eastern and western aspects so that associated balconies in this building are orientated east and west rather than south towards Harvey Street where solar access is less favourable. In addition, the projection of the built form into the articulation zone of Building B has assisted in providing for a stronger solid edge at the corner of the building to Harvey Street and Brodie Avenue.

- The overall architectural design of the building with articulated façade and well modulated framed bay design assists in breaking the bulk and scale of the building thus off-setting the limited encroachments into the articulation zones and making these encroachments less intrusive.

- The new wing sections connecting Building A with the Delaney Building will be lower in height and scale than both the Delaney Building and the proposed Building A so that it would not detract from the significance of the heritage building as it relates to the new Building A.

- The applicant has provided an assessment of the visual impacts of Building A taken from key axial street views including at the top of Brodie Avenue which indicates that, visually, the additional height of Building A above the Delaney

Building will not be intrusive being almost unnoticeable at a distance from the subject site.

- The part-6 storey height in Building A extends for a length of 13m (approximately 19 per cent) of the total east-west length of 67m so that the additional height above the Delaney Building is localised and occurs largely because of the gradient of the site.

Apart from the localised encroachment into the articulation zone, and height of Building A above the Delaney Building, the proposal complies with the range of performance criteria for five key elements of the DCP namely site context, sub-division and amalgamation, building and site design, sustainable design, and facilities and access.

2. Development Control Plan - Parking

As indicated above, applying the DCP - Car Parking controls, a total of 229 spaces will be required for the proposed development. The proposal provides for 200 carparking spaces within the basement carpark and 15 spaces at grade on Gull Street (which is a private road). The applicant advises that the remaining visitor carspaces (14) can be accommodated within the surrounding road network. Whilst on-street parking will be available on public roads in the vicinity of the site to accommodate the deficiency in visitor parking, Council's Development Engineer has recommended that a car share bay be provided in the vicinity of the subject site to augment the future carparking needs of the development as well as those in the locality. Accordingly, a condition will be applied requiring the applicant to provide details of a car share scheme through a suitable operator. This sustainable approach is considered appropriate in addressing the shortfall in carparking.

(iiia) Any Planning Agreement

No Planning Agreement is proposed between the developer and Council.

(iv) The Regulations

The following Clauses of the EP&A Regulations 2000 apply to the proposed development:

Clause 7
Clause 92
Clause 93

The matters raised in these clauses have been adequately addressed in relevant sections of this report including the assessment undertaken by Council's Building Services and Environmental Health unit and, where applicable, conditions will be applied to ensure compliance with the standards referred to in these clauses.

(b) The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

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Natural Environment

The subject site does not contain any threatened flora or fauna and is currently vacant and devoid of any remnant vegetation in the areas to the south of the Heffron and Delaney buildings. Endangered bushland containing Eastern Suburbs Banksia Scrub exist to the south across Harvey Street. The proposal is not considered to have any adverse

impact on this bushland as the only closest building within the proposed development will be approximately 15m away from the bushland being separated by Harvey Street.

Provisions for the protection and management of this remnant bushland are contained in a Bushland Management Plan (BMP) prepared by Manidis Roberts for the Prince Henry site and adopted as part of the approval for DA1102/2004 (Stage 3 Infrastructure and streetscape works adjacent to the northern boundary of the Prince Henry site). Accordingly, adequate provisions for the protection of the bushland are in place having been established under the Master Plan and DCP process and adopted in the BMP formally under the terms of approval for DA 1102/2004. Notwithstanding this, conditions will be applied to ensure adequate protection of this remnant bushland should approval be granted.

Overall, the proposal will be acceptable in terms of natural environmental impacts which will be minimal, if not, nonexistent.

Urban Design

The architectural design of the two proposed multi-unit residential buildings is considered to be of a high standard and will complement the architectural style of new buildings already approved in other lots within the Prince Henry site (especially the approved adaptive re-use of the Flowers Wards and the approved adjoining townhouse development in Lot 51 immediately to the east). The design will also complement the proposed redevelopment and adaptive re-use of the adjoining heritage buildings comprising the Delaney and Heffron Buildings.

The proposal will have a well articulated façade with modulated framed bay design containing recessed balconies on the first floor, sitting on top of a ground floor base characterised by appropriate indentations and selected cladding. A variety of external building finishes as reflected in a sample board submitted with the application will give expression to the architectural form and visual character of the proposed development. The sample board contains a good balance of natural materials such as timber (for panel cladding) and stone (for base walls) and man-made materials such as face brick, rendered masonry, metal cladding and glass to create appropriate articulation and modulation and provide a quality visual interest for the development. In addition, the facade composition achieves an appropriate balance of vertical and horizontal elements, which provide symmetry to the proposed buildings.

At the SEPP 65 Design Review Panel meeting on 8 Nov 2010, the applicant submitted a Pre DA concept proposal to the Panel for comments. The applicant has incorporated most of the Panel's comments on the PreDA proposal into the current DA proposal which was referred to the Design Review Panel on 17 February 2011. The Panel has noted the amendments to the proposal undertaken by the applicant and, except for a number of issues which will be addressed by way of conditions, has found the current DA proposal satisfactory, advising as follows (page 4 of DRP Report dated February 2011):

"The amendments made in response to the Panel's previous report are satisfactory. The application is thorough and the buildings well resolved and the Panel commends the Application to Council.".

The issues that will be addressed by conditions relate to the aesthetics of the proposal namely a condition requiring the replacement of the proposed glass balustrades with solid or opaque glass balustrades to reduce loss of privacy to future residents, and a condition requiring additional brick detailing to relate the new brick work to that existing in the Heffron and Delaney Buildings.

Sunlight, Privacy and Views

Sunlight

The subject site is bounded by roads on the eastern, western and southern sides. Shadow diagrams submitted with the application indicate that at 9am (mid-winter) overshadowing from the new buildings A and B predominantly will occur onto Harvey Street and to a lesser extent, Brodie Avenue, with no existing adjoining residential properties affected. By 12pm, the proposal will primarily overshadow Harvey Street again with no adjoining residential properties affected. By 3pm overshadowing will predominantly fall on Harvey Street and Ewing Avenue and Bob-a-Day Park across to the east.

Internally, Building B will overshadow the west elevation of Building A. However, this overshadowing will be acceptable as this wall will be free of overshadowing from Building B earlier at midday given the maximum separation distance of 15.65 m between the two buildings. In summary, there are no existing residential or future properties adjoining the subject site to the east, south and west of the subject site that will be overshadowed by the proposal.

The DCP requires that new dwellings must achieve 3 hours of solar access 9am to 3pm midwinter. The DCP also requires that development maximise north facing roofs for installation of solar collectors. About 66 % of living rooms of the proposed development will achieve 3 hours sunlight between 9am and 3pm on 21 June. The living areas that will not receive the minimum 3 hours occur predominantly in the south facing units in the Building A. The aspect of these units is dictated to a large extent by the elongated east-west orientation of the permissible building envelope for Building A under the DCP such that full solar access is not possible. Notwithstanding, the living areas of these units are linked to generously sized balconies such that natural daylight will be readily accessible.

Privacy

In terms of privacy, the proposal will perform well as there are ample separation distances between new buildings and adapted heritage buildings consistent with the DCP – Prince Henry. In the new wing sections of Building A, west facing living rooms will have approximately max 15m separation distance from the nearest balcony in the adjoining Block B with off-setting balconies in oblique direction to one another. The east-facing balconies of the new wing section will face Bob-a-Day Park and therefore will not impact upon any residential property. Furthermore, the design of the layout is such that these east-facing balconies will not be overlooked by any living rooms or balconies in the adapted Delaney Building.

Additionally, there will be a minimum 22m separation between Building B and the Heffron Building. Building B is also separated from the future approved townhouse development in Lot 52 to the west by Brodie Avenue. Building A faces large tracts of public open space comprising natural bushland to the south across Harvey Street and the proposed Bob-a-Day Park to the east across Ewing Avenue.

Views

In terms of views, the proposal will maintain the view-sharing principles of the Prince Henry DCP in that the proposal is predominantly consistent with the building envelopes outlined in the DCP – Prince Henry Site for Precinct P3 and the Historic Precinct. The proposal largely maintains the maximum 5 storey height standard for the new buildings Block A and B with the part-6 storey component of both buildings confined to small localised sections of the buildings. The localised nature of these breaches makes them imperceptible from distant outlooks across the Prince Henry Site.

Additionally, the new wing sections between Building A and the Delaney Building does not traverse any designated east-west view corridor under the DCP. Furthermore, these new wing sections will be lower and lighter elements compared to Building A and the Delaney Building.

Traffic and Access

The applicant's traffic report indicates that the proposal is expected to generate approximately 70 to 85 vehicles per hour two-way during peak periods which the traffic report advises is a relatively low expected traffic generation which would not have a significant effect on the operation or amenity of the surrounding road network and its intersection. This assessment is considered reasonable and adequate and Council's Development Engineer raises no objections to the proposed development on traffic grounds recognising that the proposal will be acceptable in relation to traffic impacts.

Overall, the increase in traffic generation in the proposed development is not considered to have a significant traffic impact on the adjacent classified road network and intersections nor on the amenity of adjoining and surrounding

Ecologically Sustainable Development

The Prince Henry DCP requires the preparation of a Sustainability Building Report by an appropriately qualified professional to improve the energy efficiency of the proposed building. The applicant has provided a Sustainability Report prepared by a consultant engineer, incorporating a BASIX assessment of the proposal in accordance with BASIX modelling requirements for multi-unit housing. The assessment shows that the proposed development will achieve the energy and water saving, and thermal massing, targets under BASIX. Accordingly, the proposal is considered acceptable in terms of energy and water conservation.

Additionally, the proposal contains the following reasonable environmental measures:

- Building orientation to provide future occupant with optimum sun-control.
- Building materials that provide a balance of external insulation for thermal protection and internal thermal mass for heat absorption.
- Use of passive design measures including natural ventilation and external shading to achieve maximum thermal comfort.
- Use of sun control elements comprising a combination of vertical and horizontal external shading devices, internal blinds and glare control.
- Use of high efficiency lighting such as compact fluorescent with movement sensor control in common areas.
- Installation of water efficient fixtures and fittings.
- A significant degree of cross-ventilated units

These measures are considered appropriate in achieving ESD objectives.

In addition, the applicant has also provided a draft Environmental Education Toolkit which contains the information about the environmental features of the housing product and heritage elements and the transport options for the site including bus connections,

timetables, cycle paths/routes, distances to shops and facilities, etc. A condition is to be included in the consent requirement a copy of the Environmental Education Toolkit to be provided for all residents.

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

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

Site Remediation

A site audit statement (SAS) has been issued for the subject lot on 12 July 2007, indicating that the site has been remediated in accordance with the relevant standards for residential development contained in the Contaminated Lands Management Act 1997 and as per Council development consent No. 1188/02 as amended (for the demolition of buildings and the remediation of the Prince Henry site, which was issued on 28 February 2003). Accordingly, the site will be suitable for the intended use.

Social and Economic Impacts

The proposal will increase the availability of housing and promote the objectives of the zone. The added population will generate additional needs for businesses, employees and patrons, which will encourage the location of services and facilities into the broader area. The increase in density is not considered to generate an unreasonable demand on the availability of services, especially given that the overall Prince Henry development precinct is well served by a multi-purpose community centre in the eastern section near Little Bay Beach, as well as Seniors Coast Centre and Aboriginal Health Research facility. The designated neighbourhood centre at the corner of Pine Avenue and Anzac Parade (Lots 11 and 13) is currently under development with a new mini-supermarket under going shop fit-out (see Photo 2 above) . A range of passive and recreational open-spaces, all constructed and provided by Landcom under the Prince Henry Master Plan are already in place.

Overall the proposal presents a positive impact within the site and locality.

Suitability of the site

The subject site is part of the developable land within the Prince Henry Site which is identified in the revised Master Plan adopted by Council on 27 May 2003 (now referred to as a Deemed DCP). In doing so, Council considered the suitability of a range of proposed landuses and their location within the Prince Henry site. Consequently, the subject site is specifically identified in the DCP – Prince Henry Site as suitable for multi-unit housing development in Precinct P3 and the Historic Precinct. The proposal generally is consistent with the terms of the master plan and, as demonstrated above, the new apartment development will complement the existing heritage buildings. On a broader scale, the proposal will not have an adverse impact on any item of environmental, archaeological, heritage or cultural significance within the Prince Henry site.

The site has been remediated in accordance with the relevant standards for residential development contained in the Contaminated Lands Management Act 1997 and as per Council consent 1188/02 as amended. A site audit statement (SAS) has been issued for the subject lot.

Any submissions made

The proposal was notified and advertised from 14 July to 13 August 2010. The concern raised in the submission received has been addressed in relevant sections of this report as indicated in Section 6 above.

The public interest

The proposed development is generally consistent with the Master plan and DCP for the Prince Henry Site. It will provide the local community with high quality housing while providing proximity to natural coastal areas as well as a range of urban facilities and services in the Prince Henry Site. Accordingly, the proposal will have a positive social benefit for the local community and is considered to be in the wider public interest as it will facilitate future residential development in accordance with the Randwick LEP 1998, the Prince Henry DCP and adopted Master Plan/Deemed DCP.

Financial Impact Statement

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

Conclusion

The proposal is permissible with the consent of Council on the subject site and generally complies with the aims and objectives contained in the RLEP.

The proposal does not comply with the maximum FSR and storey, building and wall height standards of the Randwick LEP 1998. SEPP No.1 objections to these standards have been submitted with the application and considered to be well founded in the circumstances.

The proposal does not comply with the requirements of the Prince Henry DCP primarily in regards to building articulation and height which have been assessed and found to be reasonable in the circumstances.

The proposed development has been assessed by the Heritage Council of NSW and General Terms of Approval have been issued for the subject site which will be included as conditions of consent.

The proposal will have minimal adverse impacts on surrounding properties and heritage items. The non-compliances with policy controls will not give rise to any adverse amenity in terms of visual bulk and scale, solar access, privacy and views.

10. RECOMMENDATION

THAT the Joint Regional Planning Panel support the objection under State Environmental Planning No. 1 (SEPP No.1) in respect to non-compliance with Clauses 20C (2) and (4) of the Randwick Local Environmental Plan 1998 (Consolidation), relating to maximum floor space ratio and maximum storey, building and external wall height, on the grounds that the proposed development is consistent with the relevant objectives of the clauses and will not adversely affect the amenity of the surrounding locality and that the Department of Planning be advised accordingly.

AND

THAT the Joint Regional Planning Panel as the responsible authority grant its development consent under Section 80(3) of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No DA/1113/2010 for the adaptive reuse of 2 existing heritage buildings, namely, the Heffron and Delaney Buildings for

residential purposes and construction of 2 multi unit buildings (referred to as Building A and Building B) at the rear, each one being part 5/part 6 storeys in height with 2 levels of basement car parking for 200 vehicles and a total of 163 apartments, landscaping, strata subdivision and associated works Lots 54 and 55, DP 270427, 1 Fleming Street and 30-36 Harvey Street, Little Bay, subject to the following conditions:

A. GENERAL

1. The development must be implemented substantially in accordance with the following plans:

Plan Number	Dated	Received	Prepared By
A0.001 (2)	17-12-10	17 December 2010	Bates Smart Pty Limited
A0.002 (3)	17-12-10	17 December 2010	
A1.001 (2)	17-12-10	17 December 2010	
A1.002 (6)	17-12-10	17 December 2010	
A2.00 (6)	17-12-10	17 December 2010	
A2.001 (6)	17-12-10	17 December 2010	
A2.01 (7)	17-12-10	17 December 2010	
A2.02 (6)	17-12-10	17 December 2010	
A2.03 (6)	17-12-10	17 December 2010	
A2.04 (7)	17-12-10	17 December 2010	
A2.05 (7)	17-12-10	17 December 2010	
A2.06 (6)	17-12-10	17 December 2010	
A2.07 (6)	17-12-10	17 December 2010	
A2.08 (6)	17-12-10	17 December 2010	
A5.001 (1)	17-12-10	17 December 2010	
A5.002 (1)	17-12-10	17 December 2010	
A7.001 (4)	17-12-10	17 December 2010	
A7.002 (4)	17-12-10	17 December 2010	

A7.003 (4)	17-12-10	17 2010	December
A8.001 (4)	17-12-10	17 2010	December
A8.002 (4)	17-12-10	17 2010	December
A8.003 (4)	17-12-10	17 2010	December
A8.004 (1)	17-12-10	17 2010	December

, draft subdivision plans prepared by Denny Linker and Co. dated 14 Dec 2010 and 17 December 2010, and received by Council on 17 December 2010, and Screen Details (Heritage Presentation – 11 February 2011) prepared by Bates Smart Pty Limited and received by Council on 17 March 2011, the application form and any supporting information received with the application, except as may be amended by the following conditions:

2. The colours, materials and finishes of the external surfaces of the buildings are to be consistent with the materials sample board prepared by Bates Smart Pty Limited dated 17 December 2010.

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

3. The finished ground levels external to the building are to be consistent with the development consent and are not to be raised (other than for the provision of paving or the like on the ground) without the written consent of Council.

4. Lighting to the premises shall be designed in accordance with AS4282 – 1997 Control of the Obtrusive Effects of Outdoor Lighting" so as not to cause a nuisance to nearby residents or motorists and to ensure that light overspill does not affect the amenity of the area.

5. Public access to the visitor's carparking spaces is to be maintained at all times and an intercom system is to be provided adjacent to the vehicular entrance to the carpark, together with appropriate signage providing instructions for use.

6. A copy of the Environmental Education Toolkit as required under the Section 5.5 of the Development Control Plan – Prince Henry Site is to be provided for all future residents of the development.

7. A formal subdivision application is required to be submitted to and approved by the Council or the Certifying Authority prior to the release of the subdivision plans.

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

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

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

9. In accordance with section 80 A (11) of the Environmental Planning & Assessment Act 1979 and clause 98 of the Environmental Planning & Assessment Regulation 2000, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA). Details of compliance are to be provided in the construction certificate.

The following conditions are applied to meet the requirements of the Heritage Council of NSW:

10. The development must be implemented substantially in accordance with the General Terms of Approval issued by the Heritage Council of NSW as detailed in the letter from the Council dated 16 March 2011.

The following conditions are applied to incorporate NSW Police Crime Prevention recommendations:

11. The development must be implemented substantially in accordance with the recommendations as detailed in the NSW Police Force letter received by Council March 2011.

The following condition is applied to meet the requirements of the Sydney Airport Corporation Ltd. (SACL):

12. The development must be implemented substantially in accordance with the recommendations as detailed in the Sydney Airport Corporation Limited letter and dated 17 January 2011.

The following conditions are applied to provide for heritage and archaeological protection of the area :

13. In the event that historical archaeological remains or deposits are exposed during the works, all work shall cease while an evaluation of their potential extent and significance is undertaken and the NSW Heritage Office notified under the requirements of the Heritage Act.

The following conditions have been applied to maintain reasonable levels of amenity to the area:

14. 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 (excluding plant and equipment during the construction phase) shall not give rise to an LAeq, 15 min sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Department of Environment & Conservation Noise Control Guidelines.

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

The following conditions are applied to ensure that the development satisfies relevant legislative requirements and to provide reasonable levels of health, safety and amenity:

16. The demolition of buildings and the removal, storage, handling and disposal of building materials must be carried out in accordance with the relevant requirements of WorkCover NSW, the NSW Department of Environment & Climate Change (formerly EPA) and Randwick City Council policies and conditions, including:

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

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

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

18. Adequate provisions are to be made within the premises for the storage and removal of waste and recyclable materials, to the satisfaction of Council and the location, collection, storage and removal of wastes generated within the premises must not result in a public health nuisance or cause pollution.

19. Lighting to the premises shall be designed so as not to cause a nuisance to nearby residents or motorists and to ensure that light overspill does not affect the amenity of the area.

The following conditions are applied to ensure the protection of heritage and archaeological significance of the site:

Conservation Works

20. A Schedule of Conservation Works for the Heffron and Delaney buildings 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 as part of the Section 60 application.

21. 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 of the endorsed

Conservation Plan to ensure the use of technically sound and appropriate techniques. All work shall be carried out in accordance with the principles of the Australia ICOMOS Burra Charter.

22. The Schedule of Conservation Works is to include a maintenance plan setting out the frequency of inspections for significant fabric, its recommended life span and appropriate replacement materials.

23. Action Plans should be developed which cover the following works:

- Demolition/deconstruction methodology.
- Removal and storage of fabric during the demolition process for later reinstatement, or removal from the buildings.
- Repair and conservation of original/early render and plasterwork internally
- Repair and conservation of all metalwork items both internal and external.
- A face brick repair and replacement strategy for the external facades.

Interpretation

24. Interpretation of the former hospital ward buildings is to be implemented in conjunction with the proposed development. Interpretation for the building is to be carried out in accordance with the interpretation strategy for the former Prince Henry site prepared by MUSEscape Pty. Ltd. In particular some surviving photographs and site plans could be installed in the main stair.

B. OPERATIONAL MATTERS

The following conditions is applied to ensure occupant safety:

25. Openable windows to a room, corridor, stairway or the like with a floor level more than 4m above the external ground/surface level, must be designed and constructed to reduce the likelihood of a child accessing and falling through the window opening.

Options may include one or more of the following measures:

i. The window having a minimum sill height of 1.5m above the internal floor level,
ii. Providing a window locking device at least 1.5m above the internal floor level,
iii. Fixing or securing the window (e.g. by screws or a window locking device) to restrict or to be able to secure the extent of the opening to a maximum width of 125mm,
iv. Installing a fixed heavy-duty gauge metal screen over the opening (e.g. A metal security screen or metal security mesh and frame system, but not standard fly-screen material),
v. Other appropriate effective safety measures or barrier.

26. 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 (excluding plant and equipment during the construction phase) shall not give rise to an LAeq, 15 min

sound pressure level at any affected premises that exceeds the background LA90, 15 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 (DECC) Noise Control Guidelines.

27. Details of public access to the visitor's carparking spaces is to be maintained at all times if applicable and, any intercom system to be provided adjacent to the vehicular entrance to the carpark, together with appropriate signage providing instructions for use. This approval does not include the installation of any roller doors or gates or the like to the carpark, without the prior development consent of Council.

C. PRIOR TO THE ISSUING OF A CONSTRUCTION CERTIFICATE

The following condition is applied to meet additional demands for public facilities:

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

Category	Cost	Applicable Levy	S94A Levy
Development Cost more than $200,000	$1,253,567.90	1%	$12,535.67

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

Council's Section 94A Development Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.

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

29. The following amendments to the proposal shall be undertaken:

- *Provision of a composting area suitable fitted out and signed for common use.*
- *Use of translucent glass in all balustrades to provide more privacy for building occupants in Building A and Building B.*
- *Detail of brick work and detailing to be used in Building A and B and how these relate to the existing brick work and detailing of the Heffron and Delaney Buildings*

Details shall be submitted to and approved by Council's Director City Planning prior to a Construction Certificate being issued for the development in accordance with section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.

30. Details of bicycle storage in the basement indicating compliance with the Development Control Plan – Parking shall be submitted to and approved by Council's Director of City Planning, in accordance with section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.

31. Details of all fencing on site including all entrances and associated structures indicating compliance with Part 4.16 Fences of the Development Control Plan for Prince Henry Site shall be submitted to and approved by Council's Director of City Planning, in accordance with section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.

32. The reflectivity index of glass used in the external façade of the development must not exceed 20 percent. Details shall be submitted to and approved by Council's Director of City Planning, in accordance with section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.

33. In accordance with the provisions of clauses 143A and 154A of the Environmental Planning & Assessment Regulation 2000, a 'Design Verification Certificate' must be provided to the Certifying Authority and the Council, prior to issuing a construction certificate and an occupation certificate, respectively.

The following conditions are applied to address the requirements of the Sydney Airport Corporation Ltd. (SACL):

34. The maximum height to the topmost points of the proposed buildings, including any rooftop installations, such as lift overruns, air conditioning plant and equipment, solar panels, vents, chimneys, aerials and the like, shall not exceed the following reference levels (to AHD):

    Building A : RL53.55
    Building B: RL56.36
    Heffron Building : RL51.72
    Delaney Building : RL50.56

    Details demonstrating compliance shall be incorporated in the Construction Certificate drawings to the satisfaction of the Council / Accredited Certifier.

The following conditions are imposed to promote ecologically sustainable development and energy efficiency.

35. In accordance with Section 80A (11) of the Environmental Planning and Assessment Act 1979 and Clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition that all of the required commitments listed in the relevant BASIX Certificate for this development are fulfilled.

36. In accordance with the provisions of the Environmental Planning & Assessment Regulation 2000, a relevant BASIX Certificate and associated documentation must be submitted to the Certifying Authority with the Construction Certificate application for this development.

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

    The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.

37. The recommendations contained in the "Crime Prevention Through Environmental Design" report, prepared by RPS, and received by Council on 17 December 2010, are to be incorporated in the development. Details demonstrating compliance are to be shown in the Construction Certificate drawings to the satisfaction of the Council / Accredited Certifier.

The following conditions are applied to ensure that the development satisfies relevant legislative requirements and to provide reasonable levels of health, safety and amenity:

38. The required Long Service Levy payment, under the Building and Construction Industry Long Service Payments Act 1986, is to be forwarded to the Long Service Levy Corporation or the Council, prior to the issuing of a Construction Certificate, in accordance with Section 109F of the Environmental Planning & Assessment Act 1979.

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

39. A report or written correspondence must be obtained from a suitably qualified professional geotechnical engineer and be submitted to the certifying authority prior to the issuing of a construction certificate, confirming the suitability and stability of the site for the proposed building and certifying the suitably and adequacy of the proposed design and construction of the building for the site.

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

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

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

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

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

41. Two visitor carspaces within the basement shall be dedicated to service and delivery vehicles only. Plans submitted for the construction certificate shall demonstrate compliance with this requirement

The following conditions are applied to ensure the protection of heritage and archaeological significance of the site:

Detailed documentation

42. Detailed design resolution and contract documentation for the proposed adaptation works should be prepared in consultation with a heritage consultant so that original elements which are to remain are integrated into the new works in a meaningful way and interpreted so that cultural significance is not lost.

43. Further detailing is to be submitted indicating the extent and detail of retention of internal fabric including joinery and floor and wall finishes and fabric associated with the main stair which is to be retained.

44. Further detailing is to be submitted indicating the extent of original window and door joinery to be retained to the front elevation, including fanlights, and the design of new French doors.

45. Generally new services and fixtures should not be fixed to the original walls and ceilings. Fixings to heritage fabric should be minimal and should be made to floors and to new elements in preference to the original walls and ceilings. The existing riser duct network can be reused and their position should be indicated in the design of new work.

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

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

    a) $15,000.00 - Damage / Civil Works Security Deposit

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

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

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

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

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

47. All new walls adjacent to vehicular crossings must be lowered to a height of 600mm above the internal driveway level for a distance of 1.50m within the site or splayed 1.5 metre by 1.5 metre to provide satisfactory sight lines. Details are to be submitted to the Certifying Authority prior to the release of the construction certificate demonstrating compliance with this requirement.

48. The vehicular access, ground level carparking and the basement carpark (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of Australian Standard 2890.1:2004. Plans submitted for the construction certificate plans shall demonstrate compliance with this requirement.

49. Prior to the issue of a construction certificate, the applicant shall submit for approval and have approved by Council's Traffic Engineer a detailed construction traffic management plan. The plan shall demonstrate how construction and delivery vehicles will access the development site during the demolition and construction phase of the development.

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

50. The design alignment level (concrete/paved/tiled level) at the property boundary for driveways, access ramps and pathways or the like, shall be :

Brodie Avenue frontage

- Match back of the existing footpath

Harvey Street frontage

- Match back of the existing footpath

Ewing Avenue frontage.

- Match back of the existing footpath

Any enquiries regarding this matter should be directed to Council's Development Engineer on 9399 0881.

51. The design alignment levels (concrete/paved/tiled level) issued by Council and their relationship to the footpath must be indicated on the building plans for the Construction Certificate.

52. The above alignment levels and the site inspection by Council's Development Engineer has been issued at a prescribed fee of $4,622 calculated at $44.00 (inclusive of GST) per metre of site frontage to Harvey Street. This amount is to be paid prior to a construction certificate being issued for the development.

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

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

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

55. Documentary evidence from the relevant public utility authorities confirming that their requirements have been satisfied, must be submitted to the certifying authority prior to a construction certificate being issued for the development.

56. Any electricity substation required for the site as a consequence of this development shall be located within the site and shall be screened from view. The proposed location and elevation shall be shown on all detailed landscape drawings and specifications. The applicant must liaise with Energy Australia prior to lodging the construction certificate to determine whether or not an electricity substation is required for the development.

57. A Section 73 Compliance Certificate under the Sydney water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the website www.sydneywater.com.au then refer to "Water Servicing Coordinator" under Developing Your Land" or telephone 13 20 92 for assistance.

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

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

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

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

58. Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage shall be submitted to and approved by the certifying authority prior to a construction certificate being issued for the development. A copy of the engineering calculations and plans are to be forwarded to Council, prior to a construction certificate being issued, if Council is not the certifying authority. The drawings and details shall include the following information:

a) A detailed drainage design supported by a catchment area plan, at a scale of 1:100 or as considered acceptable to the Council or an accredited certifier, and drainage calculations prepared in accordance with the Institution of Engineers publication, Australian Rainfall and Run-off, 1987 edition.

b) A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connection into Council's stormwater system.

c) Generally all internal pipelines must be capable of discharging a 1 in 20 year storm flow. However the minimum pipe size for pipes that accept stormwater from a surface inlet pit must be 150mm diameter. The site must be graded to direct any surplus run-off (i.e. above the 1 in 20 year storm) to the proposed drainage system.

d) The separate catchment areas within the site, draining to each collection point or surface pit are to be classified into the following categories:

i. Roof areas

ii. Paved areas
iii. Grassed areas
iv. Garden areas

e) Where buildings abut higher buildings and their roofs are "flashed in" to the higher wall, the area contributing must be taken as: the projected roof area of the lower building, plus one half of the area of the vertical wall abutting, for the purpose of determining the discharge from the lower roof.

f) Proposed finished surface levels and grades of car parks, internal driveways and access aisles which are to be related to Council's design alignment levels.

g) The details of any special features that will affect the drainage design eg. the nature of the soil in the site and/or the presence of rock etc.

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

59. Landscaping at the site shall be installed substantially in accordance with the Plans by Edaw, drawing numbers L-101 – 104, L104A, L107, issue C, dated 03.12.10, and stamped 28th June 2008, subject to the following additional requirements being shown on amended plans, which shall be submitted to, and be approved by, the PCA, prior to the issue of a construction certificate (with a copy to be forwarded to Council if not the PCA, prior to the commencement of site works), and shall include:

a. A clear indication of exactly what is to be planted where, and the quantities proposed;

b. All planter boxes and garden beds constructed on slab must have a minimum *soil depth* of 600mm (1200mm for trees as has been shown), with lawn areas to have a minimum *soil depth* of 300mm;

c. Additional notation showing soil and mulch details, irrigation details, edging, paving, fencing details, surface finishes, retaining wall details, and any other landscape elements in sufficient detail to fully describe the proposed landscape works;

60. Any part of Council's footway which is damaged as a result of the works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu Turf or similar, and must be completed prior to the issue of a Final Occupation Certificate, with the applicant responsible maintaining this public area, including but not limited to, watering, mowing, fertilising, and the removal of weeds.

61. All detention tanks and below ground stormwater infiltration systems located within the landscaped areas shall have a minimum soil cover of 600mm to ensure sufficient soil depth to permit the establishment of landscaping.

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

63. In order to compliance with the above condition, certification from a qualified professional in the Landscape/Horticultural industry (must be a registered

member of either AILA or AILDM) shall be submitted to the PCA (and Council, if not the PCA), prior to the issuing of a final occupation certificate which confirms that the landscaping has been completed in accordance with the approved plans and relevant conditions of consent.

Tree Management

64. Approval is granted for removal of the following trees, subject to retaining the other trees listed for preservation at the site (refer Tree Protection Measures below), together with full implementation of the approved landscape plans:

    b) Two *Banksia integrifolia* (Coastal Banksia's), on the eastern side of the main entrance of the Heffron Building, as well as the row of six trees of the same species against the western half of the Delaney Building, due to their declining condition, and to accommodate the Landscape Design philosophy of providing only very minimal landscape treatment in these areas so as to increase views both to and from the Heritage significant buildings;

    c) One *Allocasurina torulosa* (Forest Oak), close to the northwest corner of the Delaney Building to accommodate the proposed works as shown.

65. Permission is granted for the selective and minimal pruning of only those branches from the two trees listed for retention (refer Tree Protection measures below), where it is needed so as to improve their health, form or structure, or in order to avoid damage/conflict during the course of the works.

66. All pruning must be undertaken by an Arborist who holds a minimum of AQF Level III in Arboriculture, and who is also a registered member of a nationally recognised organisation/association, with all pruning to be performed to Australian Standard AS 4373-1996 'Pruning of Amenity Trees.'

Tree Protection Measures

67. In order to ensure retention of the two existing Banksia integrifolia (Coastal Banksia's) at the site, being one beyond the northwest corner of the Heffron Building, at the corner of Brodie Avenue and Fleming Street, and one just to the east of the Delaney Building entry in good health, the following measures are to be undertaken:

    a. All detailed architectural, building, demolition, engineering (structural, stormwater & drainage, services), and landscape documentation submitted for the construction certificate application must show their retention, with the position of their trunks, and full diameter of their canopies clearly shown on all drawings.

    b. All detailed documentation shall also show no alteration in the existing soil levels or the location of any structures, services, footings, paving, detention tanks, stormwater infiltration systems, pipes, cutting or battering of the existing soil profile, or any excavations within a distance of 3 metres off the outside edge of their trunks, beneath the extent of either of their driplines.

    b. Should the existing heritage retaining wall, near the northwest corner of the Heffron Building, need to be repaired or reconstructed, the applicant must ensure that suitable shoring is provided between the wall and the tree, in order to prevent collapse of the soil profile, and subsequent disturbance to the root system.

c. Both trees shall be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing which shall be located a minimum distance of 2 metres off the outside edge of each of their trunks, on all four sides, so as to completely enclose them for the duration of the works.

d. This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE, DO NOT ENTER".

e. Within these zones there is to be no storage of materials or machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble.

f. Any excavations required for footings, structures, retaining walls, services, pipes, detention tanks, stormwater infiltration systems, paving etc within a distance of 3 metres off their trunks shall initially be undertaken by hand, to a minimum depth of 600mm, with any roots encountered to be cut cleanly by hand, and the affected area backfilled with clean site soil as soon as practically possible.

68. In order to also ensure that the 31 existing street trees surrounding the site are retained, comprising on the Brodie Avenue frontage, from east to west, one Eucalyptus species (Gum Tree), on each side of the pram ramp, near the eastern boundary, then further to their west, a row of four Banksia integrifolia (Coastal Banksia's) adjacent the car parking bay, and another two Gums on the corner of Harvey Street; then along Harvey Street, a total of 15 Gums, being nine from the corner of Brodie Avenue to the northern side of the vehicle crossing, and six on its southern side, extending to the corner of Ewing Avenue; and then on Ewing Avenue, at the corner of Harvey Street, one Gum tree on either side of the pram ramp, then extending further to the east, four Banksia's and another two Gums, near the eastern boundary, in good health, the following measures are to be undertaken:

a. All detailed architectural, building, demolition, engineering (structural, stormwater & drainage, services), and landscape documentation submitted for the construction certificate application must show their retention with the position of each tree to be clearly shown.

b. The applicant is not authorised to perform any works to these street trees, and shall contact Council's Landscape Development Officer on 9399-0613 should pruning, relocation, removal or any similar such work appear necessary, with the applicant required to cover all associated costs, to Council's satisfaction, prior to the issue of a final occupation certificate.

c. There shall be no storage of materials or machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble on the footpath/nature strip area, near these trees.

D. PRIOR TO ANY WORK COMMENCING ON THE SITE

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

69. A Site Audit Statement (SAS) and Summary Site Audit Report (SSAR) have been issued for this site. An "Unexpected Finds Protocol" forms part of these documents and shall be complied with as part of this consent. Copies of the SAS and Unexpected Finds Protocol shall be included in all leases and sales contracts.

70. The builders, site workers and the Principal Certifying Authority for this development are to be made aware of this unexpected finds protocol and its requirements prior to any works commencing.

71. Details of any unexpected finds, including the details of any investigation procedures, remedial actions and validation undertaken shall be forwarded to the Council accordingly.

72. Chemical, Hazardous or intractable wastes arising from the demolition, excavation and remediation process being removed and disposed of in accordance with the requirements of WorkCover NSW and the Environment Protection Authority, and with the provisions of:

- New South Wales Occupational Health and Safety Act, 2000;
- The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
- The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
- Protection Of the Environment Operations Act 1997 (NSW) and
- Environment Protection Authority's Environmental Guidelines; Assessment,
- Classification and Management of Liquid and Non Liquid Wastes (1999).
- The Chemical Control Order for Scheduled Chemical Wastes 2004

73. Any fill importation to the site is to be monitored and classified by the Site Auditor appointed for remediation of the site or a person with his qualifications. Only 'Virgin Excavated Natural Material ' (VENM) is to be imported to the site, as defined within the NSW EPA 'Environmental Guidelines; Assessment, Classification and management of Liquid and Non-Liquid Wastes. 1999'.

The following conditions are applied to address the requirements of the Sydney Airport Corporation Ltd. (SACL):

Details demonstrating compliance shall be incorporated in the Construction Certificate drawings to the satisfaction of the Council / Accredited Certifier.

74. Should the height of any temporary structure and/or equipment be greater than RL56.36 above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.

Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.

SACL advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.

Information required by SACL prior to any approval is to include:

- The location of any temporary structure or equipment, i.e. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);

- The swing circle of any temporary structure / equipment used during construction;
- The maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment i.e. construction cranes, intended to be used in the erection of the proposed structure / activity;
- The period of the proposed operation (i.e. construction cranes) and desired operating hours for any temporary structures.

Any application for approval containing the above information, should be submitted to this Corporation at least 35 days prior to commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, which now apply to this Airport.

For further information on Height Restrictions please contact Ms Lynn Barrington on (02) 9667-9217.

Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed "controlled activity" and is punishable by a fine of up to 50 penalty units.

The height of the prescribed airspace at the site is approx. 94.0 metres above Australian Height Datum (AHD). In accordance with Regulation 9 of the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, "a thing to be used in erecting the building, structure or thing would, during the erection of the building, structure or thing, intrude into PANS OPS airspace for the Airport, cannot be approved".

Bird and Obstacle Hazard Management

The area in which the proposed development is located is within the vicinity of Sydney (KS) Airport.

To minimise the potential for bird habitation and roosting, the Proponent must ensure that non-bird attracting plant species are used in any landscaping design.

Any landscaping design must minimise the attractiveness for foraging birds, i.e. site is kept clean regularly, refuse bins are covered, and detention ponds are netted.

All trees to be planted shall not be capable of intruding into the Obstacle Limitation Surface when mature.

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

75. An application for **installation** of any proposed grey water recycling system, in accordance with Section 68 of the Local Government Act 1993 and the Local Government (General) Regulation 2005 is to be submitted to and approved by Council prior to these works commencing. Details of compliance with relevant Department of Energy, Utilities and Sustainability (DEUS), Independent Pricing and Regulatory Tribunal (IPART) and NSW Health guidelines are to be provided with the application.

76. An application for the **operation** of any proposed grey water system, in accordance with Section 68 of the Local Government Act 1993 and the Local Government (General) Regulation 2005 is to be submitted to and approved by

Council in accordance with the relevant regulatory framework. Details of compliance with relevant Department of Energy, Utilities and Sustainability (DEUS),Independent Pricing and Regulatory Tribunal (IPART) and NSW Health guidelines are to be provided with the application.

The following conditions are applied to ensure that the development satisfies relevant legislative requirements and to provide reasonable levels of health, safety and amenity:

77. Prior to the commencement of any excavation or building works, a construction certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

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

78. Prior to the commencement of any excavation or building works, the person having the benefit of the development consent must:-

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

79. In accordance with section 80 A (11) of the Environmental Planning & Assessment Act 1979 and clause 98 of the Environmental Planning & Assessment Regulation 2000, the requirements of the Home Building Act 1989 must be complied with.

    Details of the Licensed Building Contractor (and a copy of any relevant Certificate of Insurance) or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifying Authority and Council prior to commencement of works.

80. The installation of ground or rock anchors underneath any adjoining premises including (a public roadway or public place) must not be carried out without specific written consent of the owners of the affected adjoining premises and (where applicable) details of compliance must be provided to the certifying authority prior to the commencement of any excavation or building works.

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

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

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

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

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

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

If the work involves asbestos products or materials, a copy of the Demolition Work Plan must be provided to Council.

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

83. All excavations and backfilling associated with the erection or demolition of a building must be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and supported to prevent them from being dangerous to life, property or buildings.

Retaining walls, shoring or piling must be provided to support land which is excavated in association with the erection or demolition of a building, to prevent the movement of soil and to support the adjacent land and buildings, if the soil conditions require it. Adequate provisions are also to be made for drainage.

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

84. A Construction Noise & Vibration Management Plan, prepared in accordance with the Department of Climate Change Guidelines for Construction Noise and Assessing Vibration, by a suitably qualified person, is to be developed and implemented prior to commencing site work and throughout the course of construction, to the satisfaction of the Council.

a) Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents.

Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management strategies.

b) The *Construction Noise & Vibration Management Plan* must include details of measurements, analysis and relevant criteria and demonstrate that the noise and vibration emissions from the work satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997*, current DECC Guidelines for Construction Noise and Assessing Vibration and Councils conditions of consent.

c) A further report/correspondence must be obtained from the consultant as soon as practicable **upon the commencement of works**, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the *Construction Noise & Vibration Management Plan* and which demonstrates compliance with relevant criteria.

d) Any recommendations and requirements contained in the *Construction Noise & Vibration Management Plan* and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to Council and the PCA.

A copy of the *Construction Noise & Vibration Management Plan* and associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to Council and the Principal Certifying Authority accordingly.

85. Public health, safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be satisfied:

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

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

c) Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health, Building & Regulatory Services department.

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

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

e) A temporary timber, asphalt or concrete crossing is to be provided to the site entrance across the kerb and footway area, with splayed edges, to the satisfaction of Council, unless access is via an existing concrete crossover.

f) Temporary toilet facilities are to be provided within the work site throughout the course of demolition and construction, to the satisfaction of WorkCover NSW and Council. The toilet facilities must be connected to a public sewer or other sewage management facility approved by Council.

g) Public safety must be maintained at all times and public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied, to the satisfaction of Council.

A temporary safety fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5 metres). Temporary fences are to have a minimum height of 1.8 metres and be constructed of cyclone wire fencing, with geotextile fabric attached to the inside of the fence to provide dust control, or other material approved by Council.

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

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

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

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

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

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

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

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

i) A Road / Asset Opening application must be submitted to and be approved by 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 an occupation certificate for the development. For further information, please contact Council's Road / Asset Opening Officer on 9399 0691 or 9399 0999.

j) The owner/builder is required to hold Public Liability Insurance, with a minimum liability of $10 million and a copy of the Insurance cover is to be provided to Council.

86. A Construction Site Management Plan is to be developed and implemented prior to the commencement of any works. The site management plan must include the following measures, as applicable to the type of development:

- location and construction of protective fencing / hoardings to the perimeter of the site;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;
- provisions for public safety;
- dust control measures;
- site access location and construction
- details of methods of disposal of demolition materials;
- protective measures for tree preservation;
- provisions for temporary sanitary facilities;
- location and size of waste containers/bulk bins;
- details of proposed sediment and erosion control measures;
- construction noise and vibration management;
- construction traffic management details.

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

87. During construction stages, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban

Stormwater – Soils and Construction, published by Landcom, to the satisfaction of Council.

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

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

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

If the proposal is acceptable to Sydney Water, the plans will be appropriately stamped. For Quick Check agent details please refer to Sydney Water's web site at www.sydneywater.com.au and go to the Building, Developing and Plumbing, then Quick Check or Building and Renovating or telephone 13 20 92.

The principal certifying authority is required to ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans **before the commencement of any works**.

The following conditions are applied to ensure the protection of heritage and archaeological significance of the site:

Aboriginal Archaeology

89. Prior to the commencement of the proposed works, all contractors and relevant personnel involved are to be made aware of the existence of Aboriginal archaeological remains at the Prince Henry site by way of an induction process and of the possibility that more as yet undiscovered Aboriginal cultural material may exist there.

90. Site contractors are to be advised of their obligations under the National Parks and Wildlife Act 1974 (NSW) and notification procedures in the event that any Aboriginal cultural material is disturbed or exposed during site works.

Historical Archaeology

91. Prior to the commencement of any subsurface disturbance (excavation), all those involved are to be made aware of the potential for historical archaeological relics to survive within the area. This is to be dome through a site induction, which also notifies all involved of their obligations under the Heritage Act 1977 (NSW).

Archival recording

92. A photographic archival record of both exteriors and interiors should be prepared in accordance with recommendations of the Godden Mackay Logan Conservation Management Plan for the site in relation to buildings of high significance, prior to any work being commenced. As the building is of State significance, a copy of the

archival recording should be lodged with Randwick City Council and the NSW Heritage Office.

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

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

94. Stormwater runoff from the site Lots 54 and 55 shall be managed in accordance with the Prince Henry drainage strategy prepared by Connell Wagner. This shall involve the major portion of the site discharging to the underground drainage system in Ewing Avenue via new or existing kerb inlet pits.

95. Any new kerb inlet pits shall be constructed in general accordance with Council's standard drawing SD7a.

96. Any Infiltration systems/Absorption Trenches must be designed in accordance with "Section 8.5 ABSORPTION TRENCHES" as stipulated in Randwick City Council's Private Stormwater Code.

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

Notes:-

a) Any subsoil drainage (from planter boxes etc) is to be disposed of within the site and is not to be discharged to Council's kerb & gutter and/or underground drainage system.

b) Adequate provision is to be made for the seepage water to drain around the basement carpark (to ensure that the basement will not dam or slow the movement of the seepage water through the development site). Seepage water is not to be collected and discharged from the site

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

98. The submitted waste management report does not contain sufficient detail of the waste management arrangements for the site. Prior to the issuing of a construction certificate for the proposed development the applicant is to submit to Council and have approved by Council's Manager of Waste Services, a detailed Waste Management Plan detailing waste and recycling storage and disposal for the development site.

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

NOTE: The applicant is advised to refer to the Council document 'Waste Management Guidelines for Proposed Developments' available from the

Development Engineer and Manager of Waste. Standard templates for Waste Management Plans are also available.

99. A storage area for the Tow tractor and trailer which is proposed to be used for transporting bins to the kerb frontages shall be clearly indicated on the plans submitted for the construction certificate.

100. Presentation of the bins for collection shall be split approximately evenly among the frontages of Ewing Avenue, Brodie street and Harvey street.

101. 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.

102. The waste storage areas shall be clearly signposted.

E. DURING CONSTRUCTION WORKS

The following conditions are applied to ensure the protection of heritage and archaeological significance of the site:

Aboriginal Archaeology

103. Should Aboriginal objects be found, the Department of Environment and Conservation (DEC) is to be informed (as required by the provisions of the NSW National Parks and Wildlife Act 1974). Subject to an assessment of the extent, integrity and significance of any exposed objects, applications under ether Section 87 or Section 90 of the National Parks and Wildlife Act may be required before works resumes.

Historical Archaeology

104. In the event that historical archaeological remains or deposits are exposed during the works, the excavation works shall cease immediately and an evaluation of their potential extent and significance should be undertaken and the Heritage Council of NSW be notified under the requirements of the Heritage Act.

Salvaged fabric

105. Any heritage fabric removed as part of the adaptation building works should be examined by a heritage consultant and if it is determined appropriate, be tagged and stored in a weathertight repository on the site. Some of the fabric may be suitable for re-use (eg- recycled to repair of replace existing joinery). The removed key/name board is to be relocated within the main entry vestibule on the eastern (front) side.

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

106. Any new information which comes to light during demolition and construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council and the Principal Certifying Authority immediately.

107. The works shall not give rise to environmental pollution or public nuisance or, result in an offence under the Protection of the Environment Operations Act 1997 or NSW Occupational Health & Safety Act (2000) & Regulations (2001).

The following conditions are applied to ensure that the construction works are executed in a proper manner:

108. The building works must be inspected by the Principal Certifying Authority, in accordance with sections 109 E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

109. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:

- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
- name, address and telephone number of the *Principal Certifying Authority*,
- a statement stating that "unauthorised entry to the work site is prohibited".

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

a) A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10m^2 of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence.

a) On sites involving the removal of asbestos, a professionally manufactured sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS" and include details of the licensed contractor. The sign shall measure not less than 400mm x 300mm and the sign is to be installed prior to demolition work commencing and is to remain in place until such time as all asbestos has been safely removed from the site.

b) Asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Waste) Regulation 1996. Asbestos waste must be disposed of at an approved waste disposal depot (refer to the DEC or Waste Service NSW for details of sites). Copies of all receipts detailing method and location of disposal must be maintained on site and be provided to Council officers upon request, as evidence of correct disposal.

c) A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos removal contractor, building consultant, architect or experienced licensed building contractor), must be provided to Council upon completion of the works **prior to an Occupation Certificate being issued**, which confirms that the asbestos material have been removed appropriately and the relevant requirements

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

111. In accordance with section 80 A (11) of the Environmental Planning & Assessment Act 1979 and clause 98 E of the Environmental Planning & Assessment Regulation 2000, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.

1) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development must, at the person's own expense:

a) protect and support the adjoining premises from possible damage from the excavation, and
b) where necessary, underpin the adjoining premises to prevent any such damage.

2) The condition referred to in subclause 1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

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

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	• Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Excavating of rock, use of jack-hammers, pile-drivers or the like	• Monday to Friday - 8.00am to 5.00pm • Saturday - No work permitted • Sunday & public holidays - No work permitted
Additional requirements for all development (except for single residential dwellings)	• Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted

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

113. A Registered Surveyor's check survey certificate or compliance certificate is to be obtained at the following stage/s of construction, to demonstrate compliance with

the approved setbacks, levels, layout and height of the building, to the satisfaction of the Principal Certifying Authority:

- prior to construction of the first constructed floor/floor slab (prior to pouring of concrete),
- prior to construction of each additional new floor level,
- upon completion of the building, prior to issuing an occupation certificate,
- as may be required by the Principal Certifying Authority.

The survey documentation must be forwarded to the Principal Certifying Authority and a copy is to be forwarded to the Council, if the Council is not the principal certifying authority.

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

114. The applicant shall repair/replace any damaged sections of 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 the footpath and roadway.

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

115. A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.

116. If required, reflux valves shall be provided (within the site) over the pipelines discharging from the site to ensure that stormwater from the underground drainage system does not surcharge back into the site stormwater system.

117. Should a pump system be required to drain any portion of the site the system must be designed with a minimum of two pumps being installed, connected in parallel (with each pump capable of discharging at the permissible discharge rate) and connected to a control board so that each pump will operate alternatively. The pump wet well shall be sized for the 1 in 100 year, 2 hour storm assuming both pumps are not working.

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

118. A sediment/silt arrester pit must be provided:-

d) within the site at or near the street boundary prior to the site stormwater discharging by gravity to the street drainage system; and
e) prior to stormwater discharging into any absorption/infiltration system.

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

- The base of the pit located a minimum 300mm under the invert level of the outlet pipe.

- The pit constructed from cast in-situ concrete, precast concrete or double brick.

- A minimum of 4 x 90 mm diameter weep holes located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes.

- A galvanised heavy-duty screen located over the outlet pipe/s (Mascot GMS multipurpose filter screen or equivalent).

- The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system.

- A child proof and corrosion resistant fastening system provided for the access grate.

- A sign adjacent to the pit stating:

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

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

119. Two car washing bays shall be provided for this development.

a) The car washing bays must be drained to sewer to the requirements of Sydney Water and proof of compliance is to be submitted to the certifying authority, prior to a construction certificate being issued for the proposed development.

b) The car washing bays must be located outside any required/approved stormwater detention system.

c) The car washing bays must be signposted with *'Exclusive Carwash Bay Use Sat 2:00pm – 5:00pm and Sunday 10:00am – 2:00pm, Visitor parking at other times'*

d) The car washing bays must be constructed with a minimum 20mm bund around the perimeter of the car washing bays (or equivalent)

e) A water tap shall be located adjacent to the car washing bays.

The following conditions are applied to protect the remnant native Bushland opposite the site in Harvey Street.

120. There shall no temporary or permanent placement or storage of plant, materials, tools equipment or vehicles, with no foreign matter, including, but not limited to: litter, cement wash, concrete, fill, soils, mulch, building materials, chemicals, petroleum-based products, paint, etc, to be placed or disposed of in, or where it may enter, the area of native bushland opposite the site, on the southern side of Harvey Street.

121. Should a breach of the above condition occur for whatever reason during the course of the works, the applicant will be responsible for repairing/reinstating the bushland to its existing condition, at their cost, and to the satisfaction of Council's Supervisor of Bushland Open Spaces, prior to the issue of a final occupation certificate.

122. Temporary or permanent lighting must not be directed onto/towards the bushland so as to avoid disturbance to native fauna.

123. No species which have been recorded as naturally occurring at the Prince Henry site, or which have the capacity to escape planted areas and invade the adjoining bushland shall be used during the landscaping, either during the course of the proposed works, or at any time in the future.

F. PRIOR TO ISSUE OF STRATA SUB-DIVISION CERTIFICATE

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

124. A Survey Plan consolidating Lots 54 & 55 shall be registered prior to the endorsement of the Strata Plans.

125. A Section 73 Compliance Certificate under the Sydney water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the website www.sydneywater.com.au then refer to "Water Servicing Coordinator" under Developing Your Land" or telephone 13 20 92 for assistance.

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

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

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

126. All floors, external walls and ceilings depicted in the proposed strata plan must be constructed prior to the issue of a strata certificate.

127. All floors, external walls and ceilings depicted in the proposed strata plan must correspond to those depicted in this development consent and the construction certificate for the building.

128. Prior to the endorsement of the strata plans, all facilities required under this development consent (such as parking spaces, terraces and courtyards) must be provided in accordance with the relevant requirements

129. The applicant shall create suitable rights of carriageway and easements for services and internal stormwater lines, as required. The applicant shall be advised that the minimum easement width for any internal stormwater line is 0.9 metres.

130. All roads and reserves must be satisfactorily restored prior to endorsement of the strata subdivision plans.

131. The applicant shall provide Council with the finalised strata subdivision plans of the property prior to their endorsement.

132. Details of critical stage inspections carried out by the principal certifying authority, together with any other certification relied upon, must be provided to Council or the accredited certifier prior to the issuing of a subdivision certificate.

G. PRIOR TO OCCUPATION OF THE BUILDING / PREMISES

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

133. 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 internal acoustic amenity for the development and the external amenity criteria comply with the relevant provisions of the Protection of the Environment Operations Act 1997, NSW Environmental Protection Authority Noise Control Manual & Industrial Noise Policy and conditions of Council's approval, to the satisfaction of Council's Manager of Health, Building & Regulatory Services.

134. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation of the building in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.

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

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

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

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

An annual *Fire Safety Statement* is also required to be submitted to the Council and the NSW Fire Brigades, each year after the date of the *Fire Safety Certificate*, in accordance with the *Environmental Planning & Assessment Regulation 2000*.

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

138. Where the building is provided with plant and equipment (e.g. air-conditioners, mechanical ventilation/exhaust systems or refrigeration motors etc) a report must be obtained from a suitably qualified and experienced consultant in acoustics, 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 DECC/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 and a copy of the report must be provided to Council prior to/upon issuing an occupation certificate.

139. Street and unit numbering must be provided to the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council, prior to an occupation certificate being issued for the development.

In this regard, an Application must be submitted to and approved by Council's Director of City Planning, together with the required fee, for the allocation of appropriate street and unit numbers for the development, **prior to issuing an occupation certificate**.

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

140. One on-street carspace either on the Brodie, Harvey or Ewing Street frontages in vicinity of the subject site shall be dedicated for use by a car share organisation subject to the approval of Randwick Traffic committee. Details of the Car Share proposal, including implementation measures/action, shall be submitted to and approved by Council's Director of City Planning, in accordance with section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to an occupation certificate being issued for the development.

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

141. Prior to the issuing of an occupation certificate, the applicant shall submit to Council a works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced Hydraulic Engineer. The works-as-executed drainage plan shall be to the satisfaction of the Principal Certifying Authority (PCA) and shall include the following details:

f) Finished site contours at 0.2 metre intervals;
g) The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes;
h) Details of any infiltration/absorption systems; and
i) Details of any pumping systems installed (including wet well volumes).

142. Prior to the issuing of an occupation certificate, the applicant shall submit to the Principal Certifying Authority (PCA) and Council, certification from a suitably qualified and experienced Hydraulic Engineer confirming that the design and construction of the stormwater drainage system complies with the conditions of development consent. The certification must be provided following inspection/s of the site stormwater drainage system by the certifying engineers and shall be provided to the satisfaction of the PCA.

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

143. Prior to the issuing of an Occupation certificate the applicant must meet the full cost for Council or a Council approved contractor to

i) Construct full width heavy-duty concrete vehicular crossing and layback at the kerb opposite the proposed vehicular entrance to the site in Ewing Avenue

ii) Re-Construct Darwin Street and Fleming Street along the site frontage as required to the satisafction of Landcom or its nominated represenative

iii) Construct Gull Street to the satisafaction of Landcom or its nominated represenative.

iv) Construct full width heavy-duty concrete vehicular crossings and laybacks in Ewing Avenue and Brodie Avenue at the intersection with Gull Street.

NOTE: Council notes that many of the carspaces and internal footpaths are accessed from 'Private Roads' and Council is not the consent authority for these works. The Certifying Authority must ensure that all vehicular crossings on private roads are constructed to appropriate design standards.

144. 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 Policy for "Vehicular Access and Road and Drainage Works" and the following requirements:

a) All work on Council land must be carried out by Council, unless specific written approval has been obtained from Council to use non-Council contractors.

b) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a *Pre-paid Works Application Form*, prior to issuing an occupation certificate, together with payment of the relevant fees.

c) If it is proposed to use non-Council contractors to carry out the civil works on Council land, the work must not commence until the written approval has been obtained from Council and the work must be carried out in accordance with the conditions of consent, Council's design details and payment of a Council design and supervision fee.

d) The civil works must be completed in accordance with Council's conditions of consent and approved design and construction documentation, prior to occupation of the development, or as otherwise approved by Council in writing.

E. ADVISORY

A1 The assessment of this development application does not include an assessment of the proposed building work under the Building Code of Australia (BCA).

All new building work must comply with the BCA and relevant Australian Standards and details of compliance must be provided in the Construction Certificate application.

A2 Access for persons with disabilities, suitable access ramp/s should be provided from the entry to the premises and to the building to the satisfaction of the certifying authority and details should be included in the construction certificate.

A3 A separate Local Approval application must be submitted to and be approved by Council's Health, Building & Regulatory Services department prior to commencing any of the following activities:-

- Install or erect any site fencing, hoardings or site structures on any part of the nature strip, road or footpath
- Operate a crane or hoist goods or materials over a footpath or road
- Placement of a waste skip, bin or any other container or article on the road, nature strip or footpath.

Notes:

- The standard conditions may be modified or supplemented by additional non-standard site specific conditions to address any specific environmental, amenity, construction and safety considerations associated with the proposal.

- The waste management, drainage and infrastructure standard conditions may be modified or replaced with site specific conditions as proposed by Council's Development Engineer, City Services or Waste Services officers.

A4. 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.