

**Joint Regional Planning Panel
(Sydney East Region)**

JRPP No.	
DA No.:	DA/496/2011 – Stage 2 DA for Lot 5 to construct a 5 storey multi unit residential development with 45 apartments, basement parking for 47 vehicles and landscaping at 1408 Anzac Parade, Little Bay
Applicant:	CHOF 5 Little Bay Pty Limited
Report By:	Major Assessment Co-ordinator – Randwick City Council

1. EXECUTIVE SUMMARY

Council is in receipt of a Stage 2 development application to construct a 5 storey multi unit residential development with 45 apartments, basement parking for 47 vehicles and landscaping in Lot 5 at 1408 Anzac Parade, Little Bay

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.

The subject site comprises Lot 5 which is located within a larger development site (referred to as the Stage 1 development site) that was the subject of a Stage 1 Plan approved under DA No. DA/81/2009 by Land and Environment Court on 23 December 2009. The approved Stage 1 Plan provides the main controls for future built forms and design principles for public domain elements. The approval for DA/81/2009 also included Stage 1 Works comprising essentially bulk earthworks, remediation works, civil infrastructure works and land sub-division.

The proposal is permissible in the Special Uses 5 zoning of the subject land under the Randwick Local Environmental Plan (Consolidation). The proposal does not comply with the maximum 0.5:1 FSR control for residential uses in Special Uses 5 zones. The proposal has an FSR of 1.3:1 in relation to the subject site, being Lot 5. The applicant has submitted a SEPP 1 objection in relation to the breach.

An assessment of the SEPP 1 objections, as detailed in the assessment report, indicates that strict compliance with the controls would be unreasonable and unnecessary, in this case, as the variation is a technical variation arising as a consequence of the FSR being calculated in relation specifically and individually to Lot 5, so that, when the proposed floor area is seen in the context of the overall Stage 1 development site, the proposal forms part of an overall Stage 1 development that will be compliant with the maximum 0.5:1 FSR. Additionally, the proposal is consistent in building height and landscaping to that required under the Stage 1 Plan; has a bulk and scale that will be compatible with the dominant character of existing and preferred future development in the locality, in particular, as a part of the emerging high rise residential streetscape in the Prince Henry site; and will not compromise the amenity of surrounding residential areas.

The proposal is generally consistent with the controls contained in the Stage 1 Plan with minor variations relating to setbacks, solar access to proposed landscaped areas, external material and glazing. These variations have been assessed in the assessment report and are considered justified in the circumstances.

The application is considered suitable for approval subject to conditions.

2. SITE DESCRIPTION AND LOCALITY:

The subject site comprises Lot 5 which is located within a larger development site (referred to as the Stage 1 development site) that is the subject of a Stage 1 plan. Lot 5 was created by the sub-division plan approved as part of the Stage 1 Consent. It should be noted that Lot 5 and all other allotments within the Stage 1 development site have not yet been registered with Lands and Property Management Authority (formerly Lands Title Office).

The subject site is located on the eastern side of Anzac Parade and at the south-eastern corner of the overall Stage 1 development site. Lot 5 has a site area of 2,311 sqm. The site has a 33m western boundary fronting Anzac parade; a 93m southern boundary fronting a future road known as Solarch Avenue; a 72m southern boundary which abuts residential development within the established Prince Henry site; and a 26m eastern boundary which abuts a pedestrian accessway to the Prince Henry site. The site is relatively flat with a regraded ground level of RL36.8 – RL37.5.



Figure 1: The subject site, Lot 5 within the overall Stage 1 development site (bound in red) and its surrounds.

The immediate context of the subject site is the Stage 1 development site which contains the following features:

- The location of the former UNSW sporting fields and associated facilities on the western section;
- The location of former UNSW Biological Research Centre and fire-damaged Solarch buildings;
- A watercourse containing a registered Ochre and Miocene Site (traditionally harvested for use by Aboriginal communities), the Little Bay Geological Site, and constructed dams in the central section; and
- Small portion of ESBS remnant along the eastern boundary with the main ESBS remnant being located on adjoining land to the east in Lot 12 DP 164309 (see table in Section 3 below) which does not form part of the Stage 1 development site.

The Stage 1 development site has been subjected to extensive bulk earth and remediation works approved under the Stage 1 Works. Generally, it is relatively level in the western section that previously contained the sporting fields, falls steeply into a

depression containing the Ochre Site and watercourse in the central portion, then sloping down gently west to east in the vicinity of the golf course.

The wider context of the subject site comprises, to the north, the existing Department of Housing low to medium density residential area; to the east, the greens and landscaped areas of the Coast Golf and Recreation Club; to the south, the Prince Henry development site; and to the east, Anzac Parade and generally low to medium density residential development beyond.

Photo1 : Photographs of the site and surrounds	
1. The subject site (foreground left) viewed from Anzac Parade looking south-east with the new apartment building (4 storeys + loft) currently under construction on the adjoining southern site at No. 2-4 Gubbuteh Road (within the Prince Henry Site) in the background.	2. The subject site viewed looking south and in relation to the emerging high rise streetscape along the eastern side of Anzac Parade in the Prince Henry Site.
	
3. The subject site (right) looking north-east towards the Department of Housing residential area beyond.	4. Existing multi-unit public housing directly opposite the subject site on the western side of Anzac Parade.
	

5. Existing residential development to the north west on the opposite side of Anzac Parade.	6. Department of Housing dwellings in the residential area to the north of the Stage 1 development site centred around Bilga Crescent.
	

3. HISTORY:

The subject site lies within the wider Stage 1 development site which has the following history:

DA/264/2007	A Stage 1 DA for the Community-title subdivision of the subject site into 149 residential allotments with associated building envelopes, car parking, roads and open space	Approved : 25 September 2007
DA/886/2007	<p>The DA to subdivide the land known as Lot 1 DP 164309 into three separate Torrens Title allotments. The details of the subdivided allotments are as follows:</p> <ul style="list-style-type: none"> ▪ Lot 10 – comprising the developable portion of the development site with a total area of 11.42 hectares. ▪ Lot 11 – located in the centre of the development site and containing the central corridor, Miocene and Ochre site with a total site area of 2.171 hectares; and 	Approved : 18 January 2008

	<ul style="list-style-type: none"> Lot 12 – Adjacent to the eastern side of the development site containing the ESBS remnant with a total area of 3.411 hectares. 	
DA/1020/2007	Stage 2 Development Application for bulk earthworks & remediation of land.	Approved on 11 November 2008
81/2009	Stage 1 DA including built form controls, site remediation, bulk earthworks, infrastructure and services works, demolition of all structures on site, associated landscaping and subdivision of the site into 28 residential lots and 10 super lots comprising approximately 450 dwellings. (Charter Hall)	Approved by Land & Environment Court on 23 December 2009.

Lots 10 and 11 were purchased by CHOF5 Little Bay Pty Ltd (Charter Hall) in January 2008 with Lot 12 remaining in the ownership of the University of NSW.

The proposal was not subject of a PreDA assessment. However, a copy of the scheme was referred to the SEPP 65 Design Review Panel prior to the lodgement of the current DA for comments which have been received by the applicant for the current DA scheme.

4. THE PROPOSED DEVELOPMENT

The proposed development comprises a 5 storey multi unit residential development comprising a narrow and regular elongated central core with irregular and wider 'end pieces' to the east and west.

The proposal has the following development statistics:

No. of dwelling units	45
Apartment mix	5 x 1 bedroom 30 x 1 bedroom + study 10 x 2 bedroom
Parking	47 car spaces 20 bicycle spaces
FSR	1.3:1 (2998 sqm)
Max Building Height	17.8m at south-western corner
Landscaping	Total : 53% of total site area (approximately 1224 sqm) Deep Soil : 30% of landscaped area (approximately 693 sqm)
Setbacks	Front (Anzac Parade) : max 5m to Anzac Parade (to glass-line);

	Secondary Front Solarch Avenue: min. 2m and max 7m (to glass line) Side setback to pedestrian accessway: min 5.3m Rear southern: Min. 5.8m and max 6m to southern boundary (to glass line);
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Table 1 : Development statistics

Vehicular access is provided via a single driveway from Solarch Avenue, near the corner of Solarch Avenue and Anzac Parade. 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 relating to floor space ratio contained with Randwick Local Environmental Plan 1998 under Clause 20F which states:

“(5) The maximum floor space ratio for buildings within Zone No. 5 to be used for the purpose of boarding houses, dwellings or multi-unit housing (or any two or more of them) is 0.5: 1.”

The proposed development of Lot 5 results in an FSR of 1.3:1 (2998 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 operate together with controls for building height and landscaped area to limit the size, scale and site coverage of a building having regard to the environmental amenity and aesthetic character of the area.”

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

The reason for the proposed variation relates solely to a technicality in the calculation of GFA. While the Court approved Little Bay Stage 1 Plan has an FSR of 0.5:1 across the entire Little Bay Cove site, and the GFA currently proposed on Lot 5 complies with the GFA specified for it in the Little Bay Stage 1 Plan, a technical non-compliance arises when FSR is calculated solely in relation to the area of Lot 5.

Compliance with the development standard is unreasonable and unnecessary because the proposed non-compliance is purely technical in nature, and the underlying purpose of the standard is achieved. This objection is well founded because, notwithstanding the proposed non-compliance, the proposed development forms part of a larger Little Bay Stage 1 Plan concept, which does comply.

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

- Lots 5 forms part of a larger approved Stage 1 development site containing super lots and single dwelling lots and zoned Special Uses 5. The approved Stage 1 Plan contains a Density Control Plan and table (see plan and table below) which shows that, while the subject lot (Lot 5) is one of 10 super lots (Lots 2 to 11) with individual GFAs/FSRs exceeding 0.5:1, the overall GFA for the Stage 1 development site is 68,500 sqm over a total site area of 135,962 sqm yielding an overall compliant FSR of 0.5:1.

Lot #	Site Area	Masterplan GFA	Lot Type
1	14,515	nil	Community Property
2	5,460.0	5,000	Superlot
3	5,006.0	5,350	Superlot
4	5,009.0	5,350	Superlot
5	2,311.0	3,000	Superlot
6	6,656.0	7,000	Superlot
7	4,665.0	6,150	Superlot
8	3,707.0	4,600	Superlot
9	8,036.0	6,962	Superlot
10	5,708.0	4,000	Superlot
11	9,445.0	14,520	Superlot
12	432.5	216	Single House Lot
13	432.5	216	Single House Lot
14	432.6	216	Single House Lot
15	432.6	216	Single House Lot
16	432.7	216	Single House Lot
17	432.7	216	Single House Lot
18	432.7	216	Single House Lot
19	432.8	216	Single House Lot
20	432.8	216	Single House Lot
21	570.0	285	Single House Lot
22	501.1	250	Single House Lot
23	478.5	239	Single House Lot
24	478.5	239	Single House Lot
25	478.5	239	Single House Lot
26	478.5	239	Single House Lot
27	478.5	239	Single House Lot
28	478.5	239	Single House Lot
29	478.5	239	Single House Lot
30	478.5	239	Single House Lot
31	478.8	239	Single House Lot
32	522.5	261	Single House Lot
33	482.7	241	Single House Lot
34	489.2	244	Single House Lot
35	485.7	242	Single House Lot
36	478.6	239	Single House Lot
37	489.7	244	Single House Lot
38	476.6	238	Single House Lot
39	459.7	229	Single House Lot
40	35,170	nil	Roads
41	4,451	nil	Park
42	3,243	nil	Park
43	3,075	nil	Landscaped Lot
44	1,308	nil	Irregular north-east Lot
45	5,042	nil	Ochre/Miocene Lot
Total	135,961.6	68,500	



Figure 72 - Density Control Plan

5.4.1 Density control plan

Objectives

Density in the Little Bay Stage 1 Plan is distributed to:

- (i) ensure that built form reinforces the urban pattern and street hierarchy;
- (ii) encourage a diverse mix of dwelling types and sizes across the site, rather than homogenous zones;
- (iii) locate the highest densities in areas best serviced by public transport, open prospect and/or public amenity;
- (iv) locate increased densities in areas adjacent public open spaces to provide the greatest amenity for the maximum number of future residents and to provide highly active and engaging public interfaces; and
- (v) control bulk and scale across the site.

Please refer to Section 5.4.2 for a table showing the GFA per superlot and total GFA.

Controls

The Gross Floor Area of each development parcel must not exceed the limits set in the Density Control Plan.

The site area is 135,962sqm.
The overall site Floor Space Ratio is a maximum of 0.5:1.
The Maximum Gross Floor Area across the site shall be a total of 68,500 sqm.

Definitions

Floor space: The ratio of the total gross floor area of all buildings to the site area.

Gross floor area: In accordance with Randwick City Council LEP '2005 Floor Area' Section.

- The breach in FSR only occurs when the proposed development is considered in isolation, that is, in relation to the subject site (Lot 5), as reflected in the current Stage 2 DA. However, when considered in relation to the overall Stage 1 Development Site (with a site area of 135,962 sqm), the FSR is 0.02:1 which is well below the maximum 0.5:1 FSR standard.
- The proposal complies with the maximum storey height of Basement + 5 storeys for the subject site under the Stage 1 Plan, and therefore meets the relevant building height objectives of the control including minimising the impact of built form on adjoining and nearby land; reinforcing the urban pattern and street hierarchy; and locate height in relation to the expansive scale of major streets and open spaces.
- The proposal exceeds the minimum 50% landscape area (53% provided); the minimum 25% deep soil area (30% provided); and mandatory 6m wide and 80% deep soil garden zone (6m wide and 90% provided) controls for the subject site under the Stage 1 Plan. Accordingly, the proposed landscape provisions will meet the landscape objectives of the control including to provide adequate on-site infiltration and reduce urban run-off; provide a variety of useable common landscape species to provide outlook and recreation in multi-unit apartment buildings; and to provide landscaped thresholds to articulate the transition between the public and private domain.
- The proposal will have a built form that is commensurate with the architectural design intent under the Stage 1 Plan for this lot at its location at Anzac Parade and therefore provides a built form that crucially will strengthen the streetscape and edge along this major street. The building will also have a height, bulk and scale consistent with the approved maximum 4 storeys plus loft apartment building on the adjoining site at No. 2-4 Gubbuteh Road.

- 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 as embodied in the design principles for the subject site (Section 3.2.2 of the Little Bay Stage 1 Plan, Revision D, document) under the Stage 1 Plan:
 1. *The proposed built form on the site matches like with like adjacent to the Prince Henry site for the buildings/controls that front Anzac Parade and provides for a similar scale of development along this regional transport link.*
 2. *The east –west orientation of the site lends itself to a northern aspect, and a landscaped setback to the southern boundary is intended to limit the overshadowing and visual impacts to the proposed dwellings to the south on the Prince Henry Site*
 3. *The site sits at the southern edge of the Urban Lounge, and at the intersection with pedestrian connections from the Prince Henry Site. As such it forms an important corner and should be articulated accordingly.*
 4. *The western setback control will encourage a consistent alignment of built form along Anzac Parade with the controls established in the DCP for the Prince Henry site and specifically the approved building on Lot 24 on Gubbuteh Avenue (ie., 2-4 Gubbuteh Road).*

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 Stage 1 Development 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, as the variation comprises a technical breach due to the relationship of the proposed floor area to Lot 5. The proposed floor area will be compliant with the maximum FSR control when taken in relation to the overall Stage 1 development site. The proposed does not compromise the amenity of surrounding residential areas and is compatible with the dominant character of existing and preferred future development.

There is no public benefit, in this case, to be gained in maintaining the planning control in relation to Lot 5 given the overarching compliance provided under the overall Stage 1 development. However, there is public benefit in maintaining compliance with the allocated FSR for individual allotments that cumulatively make up compliance with the 0.5:1 FSR over the whole development site, the most significant of these being to ensure that there is no cumulative creep in FSR leading to eventual over development of the development site.

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	<p><i>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.</i></p> <p><i>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.</i></p> <p>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.</p>
Second	<p><i>A second way is to establish that the underlying objective or purpose is not relevant to the development with the</i></p>

	<p><i>consequence that compliance is unnecessary.</i></p> <p>Comments: The underlying objective or purpose of the standard is relevant to the subject development.</p>
Third	<p><i>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.</i></p> <p>Comments: Compliance would, in this case, be unreasonable as the underlying objectives of the standard is achieved.</p>
Fourth	<p><i>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.</i></p> <p>Comments: The maximum FSR development standard has not been abandoned or discarded by any decision or actions of Council.</p>
Fifth	<p><i>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.</i></p> <p>Comments: The existing Special Uses 5 zoning is not considered to be inappropriate for the locality.</p>

6. NOTIFICATION / ADVERTISING

The subject application was advertised and notified from 27 July 2011 to 10 August 2011 in accordance with Development Control Plan – Public Notification of Development Proposals and Council Plans and the EPA Act 1979.

Council has received 3 submissions in response to the notification/advertising of the DA which raised the following concerns:

- **The continuous unbroken built form accentuates the overdeveloped and over bearing nature of the proposed development**
- **The building is too high with minimal landscaping.**

The proposal complies with the maximum height control of "Basement + 5 storeys" under the Stage 1 Plan. Accordingly, the Stage 1 Plan designates "Multi-unit apartment buildings" as the dwelling type for Lot 5 (Section 5.2 Dwelling types). Given the elongated east-west orientation of the subject site (at a maximum length of 93m) and a maximum block width of 33m, the proposed built form is considered an efficient, well designed outcome for the subject site with all dwelling units within the proposed building having northern exposure and almost 90% being dual aspect. The maximum 3 storeys is not considered excessive in height but instead provides a strong built urban edge to Anzac Parade and to the southern corner of the overall development site. The adjoining development at No. 2-4 Gubbuteh Road comprises a 4 storey plus loft multi-unit housing apartment building currently under construction in the Prince Henry site and is typical of

the emerging streetscape along Anzac Parade in this site. The proposed development will not be out of character with this streetscape. Additionally, the proposal has a compliant landscaping exceeding the minimum 50% landscape area (53% provided); the minimum 25% deep soil area (30% provided); and mandatory 6m wide and 80% deep soil garden zone (6m wide and 90% provided) controls for the subject site under the Stage 1 Plan. Accordingly, the proposed landscaping will provide adequate useable common landscape spaces with good outlook and recreational value, as well as screening functions and transitional functions between the public and private domain. As such the compliant 5 storey proposal, is not considered an over development of the subject site given its context in this part of Anzac Parade in Little Bay.

- **Increase pollution and waste management pressures**

A waste management plan has been lodged with the application and has been assessed by Council's Development Engineer who raises no objections to the plan subject to appropriate conditions. The proposal is for a residential use that would not give rise to any pollution issues. The Stage 1 Plan approved by Land & Environment Court on 23 December 2009 included, among other things, consideration of the provision of infrastructure services for the whole of the Stage 1 development site enabling connections to Lot 5. The applicant has also submitted a Services Engineering Report detailing service connections to Lot 5.

7. TECHNICAL OFFICER AND EXTERNAL COMMENTS

Development Engineering Comments

The development application was referred to Council's Development Engineering Department for comments. 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 Planning Comments

The development application was referred to Council's Heritage Planner in relation to location of the proposal adjacent to the Prince Henry Heritage Conservation Area. No objection is raised to the proposed development subject to conditions of consent reinforcing aboriginal heritage requirements applied in the Stage 1 development consent.

External Authority Comments

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 raised and conditions will be applied to address relevant requirements.

8 RELEVANT ENVIRONMENTAL INSTRUMENTS AND POLICY CONTROLS

8.1 Environmental instruments

The subject site is zoned Special Uses 5. The proposal is permissible with development consent.

The following relevant clauses apply to the proposal (and are addressed in detail in Section 9 below):

Clause 17 - Zone No 5 (Special Uses)
 Clause 20F - Floor Space Ratio
 Clause 22 - Services
 Clause 40 - Earthworks
 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 in relation to the above statutory instruments is provided in Section 9 below.

8.2 Policy Controls

The following policy controls apply in the assessment of the proposed development:

Stage 1 Plan (approved by the Land and Environment Court on 27 December 2009)
 Development Control Plan - Parking
 Section 94 Contributions Plan

An assessment of the proposed development in relation to the above policy planning controls is provided in section 9 below.

9. 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

9.1 Randwick Local Environmental Plan 1998 (Consolidation)

The subject site is zoned Special Uses 5 under the Randwick Local Environmental Plan 1998 (Consolidation). The proposal is permissible in the zone with Council's consent.

The following relevant clauses apply to the proposal:

Clause	Requirement	Proposal	Compliance
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 <i>"To require the general aims of this plan and the specific objectives"</i>	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	Yes

Clause	Requirement	Proposal	Compliance
	<i>of each zone to be taken into account in the assessment and determination of development applications”.</i>	variety of housing types that does not compromise the amenity of the residential area, consistent with the specific zone objectives.	
17(1) – Zone No. 5 (Special Uses)	<p>Objectives of the zone</p> <ul style="list-style-type: none"> (a) to accommodate development by public authorities on publicly owned land, and (b) to accommodate development for educational, religious, public transport or similar purposes on both publicly and privately owned land, and (c) to enable associated and ancillary development, and (d) to allow for a range of community uses to be provided to serve the needs of residents, workers and visitors, and (e) to allow for the redevelopment of land no longer required for a special use. 	<p>The proposed use for multi-unit housing is permissible in the Special Uses 5A zone with the consent of Council which has already been granted through the approval of the Stage 1 Plan under DA/81/2009.</p> <p>The subject site was formerly owned by the University of New South Wales (UNSW) and previously used for sporting fields and research by UNSW.</p> <p>The subject site was declared surplus by the Minister for Planning pursuant to State Environmental Planning Policy No. 8 – Surplus Public Land in 2007.</p>	Yes
20F(5) – Floor Space Ratio (FSR)	0.5: 1	1.3: 1 (in relation to Lot 5)	No (SEPP 1 Objection submitted)
22 Services	Consideration to be given to adequate facilities for the supply of water and the removal or disposal sewerage and drainage are available to the subject land.	The Stage 1 Plan approved by Land & Environment Court on 23 December 2009 included, among other things, the provision of infrastructure services for the whole of the Stage 1 development site enabling connections to Lot 5. The applicant has also submitted a Services Engineering	Yes

Clause	Requirement	Proposal	Compliance
		Report detailing service connections to Lot 5.	
37A – Development in Special Uses Zone	Consideration must be given to the impact of development within the Special Uses Zone on nearby development and uses in the locality.	The type, height and scale of the proposed development complies with the provisions of the Stage 1 Plan approved by Land & Environment Court on 23 December 2009. The proposed multi-unit housing development is a permissible use within Special Uses zone and is compatible with the existing residential development in the locality. The proposal will not adversely affect the amenity of nearby development and uses (as detailed in relevant assessment sections below).	Yes
40 Earthworks	Contains provisions for excavation and filling of land to ensure earthworks do not result in any detrimental impact on the topography of the site; do not interrupt the drainage patterns of the site or result in soil instability; and do not adversely impact upon the scenic quality of the site and locality subject to appropriate drainage and building conditions should approval be granted.	The Stage 1 Works approved by Land & Environment Court on 23 December 2009 included, among other things, bulk earthworks to create a regraded newly defined 'ground level' over the Stage 1 Development Site as the basis for defining building heights for future built form. Lot 5 has been regraded in accordance with the new levels established under the Stage 1 Plan and Works.	Yes
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.	The L&E court approval of the Stage 1 DA included, among other things, remediation works for the whole the Stage 1 Development site. In line with these works, a Site Audit Statement will be issued for Lot 5 prior to any residential	Yes

Clause	Requirement	Proposal	Compliance
		construction works commencing for the proposed development certifying that the land has been appropriately remediated and is suitable for the purpose of residential use. A condition will be applied requiring remediation conditions No. 77 to 80 in the Stage 1 development consent to be complied with prior to commencement of works.	
43 Heritage Conservation	Clause 43, requires among other things, that, for development sites in the vicinity of a Heritage Conservation Area, Council consider the effect of development on the heritage significance of the heritage conservation area.	The subject site is located adjacent to the Prince Henry Heritage Conservation Area. Council's heritage planner has raised no objections to the proposed development in view of its general compliance with the relevant controls in the approved Stage 1 Plan. It should also be noted that the proposal is not inconsistent with the heritage conditions imposed in the development consent for the Stage 1 Plan under DA/81/2009 as these conditions relate to the protection of the Ochre Site and the Critical Exposure Area of the Little Bay Geological Site which is located significantly away from the subject site by approximately 180m..	Yes

9.2 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).

9.3 State Environmental Planning Policy No. 55 – Remediation of Contaminated Land (SEPP 55)

SEPP No. 55 is applicable to the subject site. The policy aims to promote the remediation of contaminated land for the purposes of reducing risk of harm to human health or any other aspect of the environment.

The applicant's SEE advises that *"the Stage 1 works approved the undertaking of site remediation within the Little Bay Cove (ie., the Stage 1 Development site). Residential construction works on Lot 5 will commence following issue of a Site Audit Statement in respect to the location of these lots, certifying that the land has been appropriately remediated and is suitable for the purpose of residential use"*. The development consent (DA/81/2009) for the Stage 1 Plan included, among other things, remediation conditions, Nos. 77 to 80, to ensure that the whole of the Stage Development Site is remediated to meet the relevant NEPM criteria for intended uses. A condition will be applied requiring conditions No. 77 to 80 to be complied with prior to commencement of works relating to the subject development on Lot 5.

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

The proposal is subject to the provisions of State Environmental Planning Policy No. 65 (SEPP 65) – Design Quality of Residential Flat Buildings. The application has been considered by Council's Design Review Panel. The Panel's comments are addressed in section 9 below.

9.5 State Environment Planning Policy (Building Sustainability Index: BASIX) 2004

SEPP: BASIX applies to the proposed development. The development application is accompanied with BASIX Certificate numbered 379479M. 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.

(ii) Any Draft Environmental Planning Instrument

No draft Environmental Planning Instrument applies in the assessment of the subject DA.

(iii) Any Development Control Plan

9.6 Stage 1 Plan (Approved DA/81/2009)

The proposal generally will be consistent with the provisions of the Stage 1 Plan approved by the Land & Environment Court on 27 December 2009 with the exception of the following areas which are assessed accordingly:

Control	Requirement	Proposed	Comments
Setback	Front (Anzac Parade): Min 5m to Anzac Parade; Secondary Front - Solarch Avenue: Min. 3m; Side setback to pedestrian accessway: Min 3m Rear southern: Min 6m	Front (Anzac Parade): Complies providing max 5m from Anzac Parade boundary to western glass-line; Secondary Front Solarch Avenue: Complies with the setback requirement providing max 7m from Solarch Avenue boundary to glass line except for a portion of	There are some encroachments into the required setbacks which are considered acceptable as: <ul style="list-style-type: none">• They all occur at localised points in the façade of the buildings, namely, for a small portion of the western end of the north

Control	Requirement	Proposed	Comments
		<p>the western end of the north elevation at min 2m from the Solarch Avenue boundary.</p> <p>Side setback to pedestrian accessway: Complies providing min 5.3m from pedestrian lane.</p> <p>Rear southern: Complies with the setback requirement providing max 9.8m from southern boundary to glass line except in 3 portions of splayed walls which encroach by approximately 200mm into the setback.</p>	<p>elevation of the building and at 3 points in the southern façade</p> <ul style="list-style-type: none"> • The encroachment are minor ranging from max 1m to min 200mm in the northern and southern sides respectively. • The encroachments do not result in adverse amenity impacts to adjoining properties in terms of loss of privacy, sunlight or views.
Solar Access	25% of the area of a development's principal communal garden spaces must receive a minimum of 3 hours sunlight between 9am-3pm on June 21	The communal open space receives less than the required 3 hours sunlight between 9am-3pm on June 21	The principal communal open space is located to the south of the built form and is largely dictated by the building envelope and location approved under the Stage 1 Plan. Accordingly, the shortfall in solar access is a function of the Stage 1 Plan built form controls and not due to a failure in the design of the building as such. It should be noted that the Stage 1 Plan states that the subject landscaped southern setback primarily is intended to limit the overshadowing and visual impacts to the proposed dwellings to the south (No. 2-4 Gubbuteh Road) on the Prince Henry Site.
External Material	Use light material (colour) palette for 90% of the façade area and variable palette for remaining 10% of	Proposal uses light material (colour) palette for 80% of the façade area and variable palette for remaining	The architectural design of the building is such that the proposed "end pieces" of the building require

Control	Requirement	Proposed	Comments
	facade area	20% of facade area	visual variety supported by a strong variable palette (ie., a darker colour) especially to provide a strong address to Anzac Parade.
Glazed openings	The area of glazing in street front elevations must not exceed 40% of the area of the front façade.	Predominantly glazed frontage to Solarch Avenue street front.	The north elevation to Solarch Avenue has additional glazed openings so as to maximize the northern aspect given the dominant east-west orientation of the subject site. Landscaping along the northern frontage will assist in mitigating and screening the predominantly glazed front façade.

9.7 Development Control Plan - Parking

Use	Requirement (DCP – parking)	Proposed number and/or floor area	Required provision	Proposed provision
	1 space per one bedroom dwelling	5 x one bedroom dwelling	5	47 car spaces
		30 x 1 bedroom + study	30	
	1.2 spaces per two bedroom dwelling	10 x two bedroom dwellings	12	
	1.5 spaces per three bedroom dwellings	Nil	NA	
	Visitor: 1 space per 4 units	Visitor car parking to be provided on-street as per Condition No. 25 of the development consent for DA/81/2009 for the Stage 1 Plan.	Nil	
TOTAL			47 spaces	47 spaces

The proposal complies with the DCP – Parking. .

9.8 Section 94A Development Contributions Plan

The Section 94A Development Contributions Plan, effective from 2 July 2007, is applicable to the proposal. In accordance with the Plan, the following monetary levy is required:

Category	Cost	Applicable Levy	S94A Levy
Development Cost more than \$200,000	\$13,266,000	1%	\$132,660.00

(iia) 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

9.9 Environmental impacts

Natural Environment

The subject site does not contain any threatened flora or fauna and is currently vacant and devoid of any remnant vegetation as it has been the subject of bulk earth and remediation works. Endangered bushland containing Eastern Suburbs Banksia Scrub exist to the east and south-east of the subject site approximately 400m and 200m away respectively. The proposal is not considered to have any adverse impact on these bushland due to these significant separation distances.

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 proposed multi-unit residential buildings is considered to be of a high standard and will complement the architectural style of the buildings already approved and under construction in the adjoining Prince Henry Site as well as in other lots within the Stage 1 development site.



Figure A: Photomontage of proposed development looking south on Anzac Parade as it adjoins No2-4 Gubbuteh Road and the emerging high rise Streetscape along the eastern side of Anzac Parade in the Prince Henry Site.

The proposal will have a well articulated façade with modulated framed bay design containing projecting sharp-angled balconies on the first floor and above, 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.

Under the provisions of SEPP 65, a Design Review Panel reviewed the proposal on 2 May 2011. The Panel essentially found the proposal satisfactory subject to a number of suggestions as reflected in the Panel's comments below (followed by Council's comments in bold wherever necessary):

"PANEL COMMENTS

This was the second meeting with the applicant. Philip Thalys declared an interest and did not attend the meeting. The Panel has visited the site.

Extracts from the Panel's previous report are included in Italics.

1. Relationship to the Context of the Proposal

While the proposal and the logic of its development are well described, it is unfortunate that information was not provided about the building's relationship to Anzac Parade, other blocks within this site and the buildings on the Prince Henry site immediately to its south, as well as street cross sections. Site sections and elevations should be prepared, showing all the envelopes, current proposals and adjoining buildings and approvals.

In principle, subject to confirmatory measurement and design development, the proposal complies with the Stage 1 Master Plan for the site (Revision D August 2009)."

These issues have been addressed.

2. The Scale of the Proposal

Satisfactory

3. The Built Form of the Proposal

"The built form of the proposed building is suitable for its site. However the Panel notes that information has not been provided which enables assessment of any impacts that might be imposed on the building to the south. The relationship with the existing and proposed ground levels needs to be clearly indicated on all the drawings. The driveway would be better integrated within the building mass, rather than presenting an alienating edge to the public walkway to the east. The ends of the building present the following challenges to resolve, beyond the diagrammatic intention to orient to the view."

The driveway has been moved to the western end of the site, which is more satisfactory. There could be softer and hard landscape treatment to the driveway ramp and portal area and improvements to the wall and window design in this area. The building over could more effectively conceal the driveway ramp, and more positively address this important corner.

East end; this piece needs to address the important space of the 'Urban Lounge'. It should also have a more positive relationship and surveillance of the walkway to the east."

The relationship of the building to the Urban Lounge has been improved.

"Overshadowing on neighbouring lots needs to be understood."

This has been described and impacts less than envisaged in the approved envelope have been demonstrated.

1:50 detail sections should be provided with the DA to describe the building elements such as sunshading, handrails, roofing, cladding etc."

4. The Proposed Density

"Subject to confirmatory measurement, the proposed density complies with the Master Plan and is suitable."

It is understood that the proposal complies.

5. Resource and Energy Use and Water Efficient

"The building has been designed to maximize solar protection without compromising the enjoyment of views. The detail of the proposed screens to be "added to the south western end" will be important in achieving this."

The proposed building has the potential to perform well."

"The roof design should be developed to capture sun in winter and encourage cooling by stack effect in summer. Internal bathrooms on the top floor should achieve light and ventilation via the roof."

The Applicant has declined the provision of roof lights and ventilation to top floor bathrooms due to cost. This is unfortunate particularly for an apartment such as G09 which has a deep plan and relatively internalised bathroom and circulation areas. With regard to cost, the simple inclusion of natural light and northern winter sun to the centre of the plan would make this unit more livable.

"Sun shading, appropriate to orientation will be required for all windows."

Additional sun-screening has been provided.

6. The Proposed Landscape

"On site landscape treatment and its relationship to the proposed design of the public domain have yet to be provided."

The proposed landscape design is satisfactory.

The placement and design of the car park driveway and its relationship to the walkway to its east will need more careful consideration.

This issue has been addressed – see above.

7. The Amenity of the Proposal for its Users

"The apartments are thoughtfully designed and would enjoy good cross ventilation. The provision of a slightly higher than usual ceiling height is to be commended.

The layout of the eastern end of the building could perhaps be reconsidered to improve solar access to units and their balconies and allow better views. It is the Panel's view that this could be achieved without compromising the overall architectural concept.

The southern wall to the walkway should be developed so that appropriate levels of daylight are available to each of the apartment entries - the design currently looks a little too defensive. Are the stairs to the south of the walkway for access to outdoor space or is it intended that there be an access path between this proposed building and the neighbouring approved building?"

These matters have been satisfactorily addressed.

8. The Safety and Security Characteristics of the Proposal

Satisfactory

9. Social issues

"The Panel does not question the distribution of unit types and sizes proposed."

"As discussed the ground floor apartment at the eastern end of the building is in an excellent north facing location at the interface between this site and the Prince Henry development that would also enjoy a good view for a small coffee shop."

It is regrettable that this would not be permitted under the current zoning.

10. The Aesthetics of the Proposal

The proposed building, as well as offering high amenity, has the potential to become a fine piece of architecture.

SUMMARY AND RECOMMENDATIONS

The Panel commends this proposal to Council."

Comment: The proposal has been found to be consistent with the SEPP 65 Design principles.

Sunlight, Privacy and Views

Sunlight

Shadow diagrams submitted with the application indicate that at 9am (mid-winter) overshadowing predominantly will occur onto the north elevation of the southern adjoining 4-storey plus loft level building (currently under construction) at No. 2-4 Gubbutteh Road. The elevational shadow diagrams show that the north western section of the loft level will not be overshadowed by the proposal at 9:00am. By 12 noon solar access to 2-4 Gubbutteh Road will improve with the eastern end of its north-elevation receiving solar access as the shadows cast by the proposed development contract at mid-day. By 3:00pm the proposed shadow will shift further to the east falling upon the

rear open space of No 2-4 Gubbuteh Road, the pedestrian laneway (linking the Prince Henry Site with the Stage 1 Development Site) and the west elevation of the terrace block at No. 6-32 Gubbuteh Road.

The north-facing ground floor dwelling units in No 2-4 Gubbuteh Road will be overshadowed to significantly less than the minimum three hours normally required in winter. However, this overshadowing is unavoidable given the elongated east-west orientation of the proposed building which in turn is dictated by the configuration of the allotment such that full solar access for the lower level dwelling units in No2-4 Gubbuteh Road will not be possible. Notwithstanding this, it should be noted that the proposal is consistent with Stage 1 Plan controls and, when compared to the Stage 1 Plan shadow generation, the proposal (given its slender design and good articulation) results in less overshadowing than that of the consented envelope under the Stage 1 Plan.

Privacy

In terms of privacy, the proposal will perform well as there are ample separation distances between the proposed building and the adjoining southern multi-unit housing development at No. 2-4 Gubbuteh Road (minimum 14m maximum 25m). The nearest existing residential properties are more than 60m away on the opposite western side of Anzac Parade. The proposed building also faces large tracts of currently vacant regraded land comprising public open space (the Urban Lounge) to the north-east and undeveloped future residential allotments within the Stage 1 Development site to the north, north-east and east. As provided for under the Stage 1 Plan, there are generous separation distances between the proposed development and these adjoining future residential allotments to mitigate any future privacy impacts.

Views

While the proposal has been designed to gain and optimise coastal and district views including Botany Bay views, it will not unduly obstruct existing view corridors within the Stage 1 development site and the adjoining Prince Henry site.

Traffic and Access

The applicant's traffic report indicates that the expected traffic generation from the Lot 5 will be well within the estimated traffic generation for the subject site assessed in the traffic report that was submitted with the Court-approved Stage 1 Plan. The applicant's traffic consultant advises that current proposal of 45 dwelling units *"is within the range assessed in the overall (Stage 1) traffic report (288 units)."* Accordingly, overall traffic impact of the proposed development are deemed to be adequately addressed via the earlier Stage 1 traffic report. In this regard, the traffic generation will be subsumed within the overall Stage 1 traffic generation of approximately 300 vehicles per hour two-way during morning and afternoon peak periods. The traffic analysis has assigned this total additional traffic to the road network combined with existing traffic flows. The traffic analysis finds that the road network and proposed access roads onto Anzac Parade will be able to cater for the additional development traffic, with minimal impact on the existing and future traffic within the surrounding area. 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

An ESD Compliance Report prepared by Cundall, a specialist environmentally sustainable design consultant has been lodged with the DA assessing a range of ESD and BASIX measures that have been incorporated into design of the proposed development, including the installation of the following strategies:

- Water efficient fixtures and fittings
- Variable speed drive for car park mechanical exhaust ventilation and carbon monoxide sensors
- Thermostatically controlled ventilation to service plants and switch rooms
- Timers and motion detectors common areas, car park lifts and plant rooms.
- Natural ventilation to all lobbies, hallways and stairwells
- Blackwater generation for all toilets, laundries and landscape irrigation

A condition will be applied requiring all strategies identified in the Cundall report to be incorporated into the design of the proposed development.

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

Site Remediation

As detailed in Section 9.1 above, compliance with Clause 42B of the Randwick LEP, and SEPP 55 – Remediation of Contaminated Land, is currently underway on-site as part of remediation works approved under the Stage 1 DA approval and will be fully achieved with the issue of a Site Audit Statement for Lot 5 prior to any residential construction works commencing for the proposed development.

Social and Economic Impacts

The proposal will increase the availability of housing and promote the objectives of the zone relating to the beneficial redevelopment of land no longer required for special use. 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 as consideration has already been given in the Stage 1 proposal.

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

9.10 Suitability of the site

The subject site is part of the developable land within the Stage 1 development site approved by the Land and Environment Court under DA/81/2009 on 27 December 2009. The Stage 1 Plan identified a number of super allotments and smaller dwelling house allotments within the development site accompanied by appropriate built form controls applicable to these allotments. It also provided design principles for public domain elements within the subject site. The subject site is currently undergoing completion of bulk earthworks and remediation works approved under the Stage 1 DA consent as part of making the site suitable for the proposed development.

Any submissions made

The proposal was notified and advertised from 14 July to 13 August 2010. The concerns raised in the submissions 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 approved Stage 1 Plan. 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 locality. 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 approved Stage 1 Plan.

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 and the approved Stage 1 Plan.

The proposal does not comply with the maximum FSR standard applicable in the Special Uses 5 zone under the Randwick LEP 1998. A SEPP No.1 objection to this standard has been submitted with the application and considered to be well founded in the circumstances.

The proposal is inconsistent with the provisions of the Stage 1 Plan primarily in regards to setbacks, solar access, external colours and glazing, all of which have been assessed in Section 9-6 above and found to be reasonable and acceptable in the circumstances.

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

RECOMMENDATION

- A. 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 20F (5) of the Randwick Local Environmental Plan 1998 (Consolidation), relating to maximum floor space ratio 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.
- B. 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/496/2011 for the construction of a 5 storey multi unit residential development with 45 apartments, basement parking for 47 vehicles and landscaping in Lot 5 at 1408 Anzac Parade, 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
DA0.01	June 2011	30 June 2011	Fox Johnston
DA0.02	June 2011	30 June 2011	
DA1.00	June 2011	30 June 2011	
DA1.01	June 2011	30 June 2011	
DA1.02	June 2011	30 June 2011	
DA1.03	June 2011	30 June 2011	
DA1.04	June 2011	30 June 2011	
DA1.05	June 2011	30 June 2011	

DA1.06	June 2011	30 June 2011	
DA2.01	June 2011	30 June 2011	
DA2.02	June 2011	30 June 2011	
DA2.03	June 2011	30 June 2011	
DA2.04	June 2011	30 June 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 Fox Johnston Pty Limited and received by Council on 30 June 2011.

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.

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

5. 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.

6. 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 incorporate NSW Police Crime Prevention recommendations:

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

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

8. The development must be implemented substantially in accordance with the recommendations as detailed in the Sydney Airport Corporation Limited letter and dated 3 August 2011.

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

9. 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.

10. 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:

11. 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.

12. 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.
13. 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.

B. OPERATIONAL MATTERS

The following conditions are applied to ensure occupant safety:

14. 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. Other appropriate effective safety measures or barrier.
15. 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.

Stormwater Detention System

16. Any detention area must be regularly cleaned and maintained to ensure it functions as required by the design.

C. PRIOR TO THE ISSUING OF A CONSTRUCTION CERTIFICATE

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

17. 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	\$13,266,000	1%	\$132,660.00

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:

18. 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.
19. Details of all fencing on site including all entrances and associated structures indicating consistency with the Stage 1 Plan approved by the Land and Environment Court on 27 December 2009 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.

20. 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.
21. 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):

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 reference levels (to AHD) being maximum 18m above ground (48m AHD) as denoted in the Sydney Airport Corporation Limited letter dated 3 August 2011.

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.

22. 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.
23. In accordance with the provisions of the Environmental Planning & Assessment Regulation 2000, a relevant BASIX Certificate and associated documentation must be submitted to the Certifying Authority with the Construction Certificate application for this development.

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

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

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

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

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

25. 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 suitability and adequacy of the proposed design and construction of the building for the site.
26. 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 security against damage to Council's infrastructure:

Security Deposit

27. The following damage / civil works security deposit requirement must 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; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A(6) of the Environmental Planning and Assessment Act 1979:

- \$5000.00 - Damage / Civil Works Security Deposit

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

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

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

Sydney Water Requirements

28. The relevant requirements of the Sydney Water Act 1994 must be complied with and a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

An Application for a Section 73 Certificate must be made through an authorised Water Servicing Co-ordinator. For details, please refer to the "Your Business" section of Sydney Water's web site www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.

Following the application, a "Notice of Requirements" will be provided, detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Water Servicing Co-ordinator, as building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

A copy of Sydney Water's 'Notice of Requirements' must be submitted to the Certifying Authority prior to issuing a Construction Certificate.

The Section 73 Compliance Certificate is required to be obtained before an *occupation certificate* or *subdivision certificate* is issued, whichever the sooner.

Electricity Substation

29. The applicant must liaise with Ausgrid prior to obtaining a construction certificate being issued, (for any above ground works), to determine whether or not an electricity substation is required for the development. 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 relevant construction certificate and landscape plans.

Traffic conditions

30. Adequate provisions are to be made to provide pedestrian visibility and safety. All new walls (and/or landscaping) adjacent to vehicular crossings should not exceed a height of 600mm above the internal driveway level for a distance of 1.5m within the site or new walls (including landscaping) should splayed 1.5 metres by 1.5 metres. Details of compliance, to the satisfaction of the certifying authority, are to be included in the construction certificate documentation.
31. The vehicular access driveways, internal circulation ramps and the car park areas, (including, but not limited to, the ramp grades, car park layout and height clearances) are to be in accordance with the requirements of AS2890.1:2004. The internal driveway must be designed such that two vehicles can pass in the area immediately adjacent to the Solarch Street street alignment. The Construction Certificate plans must demonstrate compliance with these requirements.
32. Traffic movements on the one lane section of the internal ramp must be controlled by traffic signals. Full details of the traffic signals must be submitted with the Construction Certificate application for approval by the certifying authority. The traffic signals must be designed by a suitably qualified traffic consultant.
33. The internal driveway must be treated in a manner that makes it clear that it is not a public road. Full details of the proposed treatment of the internal driveway, in particular that section of the driveway within close proximity to Solarch Avenue, must be submitted with the Construction Certificate application for approval by the certifying authority. The adequacy of the treatment in clearly establishing that the internal driveway is a private driveway, (and not public road) must be certified by a suitably qualified traffic consultant.

34. Stop signs and associated linemarking must be positioned within the development site, on the driveway approach to the intersection, to ensure that all cars leaving the development site have to give way to traffic in the intersection. The stop signs and linemarking must be shown on the construction certificate application for approval by the certifying authority. The stop signs and linemarking must be designed by a suitably qualified traffic consultant.

Design Alignment levels

35. The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, must be obtained in writing from Council's Development Engineer Coordinator prior to lodgement of the construction certificate. The alignment levels shall be generally 2.5% above the top of kerb in Solarch Avenue at all points along Solarch Avenue. Final levels cannot be issued until such time as the kerb and gutter design for Solarch Avenue has been formally approved.

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

Any enquiries regarding this matter should be directed to Council's Development Engineer Coordinator on 9399 024.

36. The design alignment levels (concrete/paved/tiled level) issued by Council and their relationship to the roadway/kerb/footpath must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.
37. The alignment levels will be issued at a prescribed fee of \$4180) calculated at \$44.00 (inclusive of GST) per metre of site frontage to Solarch Avenue. This amount is to be paid prior to a construction certificate being issued for the development.

Stormwater Drainage & Flood Management

38. The proposed internal driveway shall be designed with a high point at least 300 mm above determined 1 in 100 year flood level. Details demonstrating compliance with this condition are to be included in the construction certificate documentation.
39. Windows, vents and other openings into the basement car park (excluding the driveway opening) are to be located at least 500 mm above the determined 1 in 100 year flood level. Details demonstrating compliance with this condition are to be included in the construction certificate documentation.
40. **Stormwater drainage plans have not been approved as part of this development consent.** Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage shall be prepared by a suitably qualified Hydraulic Engineer and submitted to and approved by the certifying authority prior to a construction certificate being issued for the development. A copy of the engineering calculations and plans are to be forwarded to Council, prior to a construction certificate being issued, if the Council is not the certifying authority. The drawings and details shall include the following information:
- a) A detailed drainage design supported by a catchment area plan, at a scale of 1:100 or as considered acceptable to the Council or an accredited certifier, and drainage calculations prepared in accordance with the

Institution of Engineers publication, Australian Rainfall and Run-off, 1987 edition.

- b) A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connection into Council's stormwater system.
 - c) The separate catchment areas within the site, draining to each collection point or surface pit are to be classified into the following categories:
 - i. Roof areas
 - ii. Paved areas
 - iii. Grassed areas
 - iv. Garden areas
 - e) Where buildings abut higher buildings and their roofs are "flushed in" to the higher wall, the area contributing must be taken as: the projected roof area of the lower building, plus one half of the area of the vertical wall abutting, for the purpose of determining the discharge from the lower roof.
 - f) Proposed finished surface levels and grades of car parks, internal driveways and access aisles which are to be related to Council's design alignment levels.
 - g) The details of any special features that will affect the drainage design eg. the nature of the soil in the site and/or the presence of rock etc.
41. The site stormwater drainage system is to be provided in accordance with the following requirements;
- a) The stormwater drainage system must be provided in accordance with the relevant requirements of Building Code of Australia and the conditions of this consent, to the satisfaction of the *Certifying Authority* and details are to be included in the construction certificate.
 - b) The stormwater must be discharged (by gravity) directly to the drainage system located at the front of the subject site in Solarch Avenue.
 - c) Onsite stormwater detention must be provided for any part of the site that drains to Anzac Parade (either directly or via Solarch Avenue). The detention system must be designed to ensure that the maximum discharge from the site into Anzac Parade does not exceed that which would occur during a **1 in 5** year storm of one hour duration for existing site conditions. All other stormwater run-off from the site for all storms up to the 1 in 20 year storm is to be retained on the site for gradual release to the street drainage system, to the satisfaction of the certifying authority.
- An overland escape route or overflow system (to Council's street drainage system) must be provided for storms having an average recurrence interval of 100 years (1 in 100 year storm), or, alternatively the stormwater detention system is to be provided to accommodate the 1 in 100 year storm.
- d) Determination of the required cumulative storage (in any on-site detention system) must be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Run-off Volume 1, 1987 Edition.

- e) If connecting to Council's underground drainage system, a reflux valve shall be provided (within the site) over the pipeline discharging from the site to ensure that stormwater from Council drainage system does not surcharge back into the site stormwater system.
- f) 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 (detention/infiltration) system.
- g) A sediment/silt arrestor pit must be provided within the site near the street boundary prior to discharge of the stormwater to Council's drainage system and prior to discharging the stormwater to any absorption/infiltration system.

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

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

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

- i) The maximum depth of ponding in any above ground detention areas shall be as follows (as applicable):
 - i. 300mm in landscaped areas (where child proof fencing is not provided around the outside of the detention area and sides slopes are steeper than 1 in 10)
 - ii. 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10
 - iii. 1200mm in landscaped areas where a safety fence is provided around the outside of the detention area
 - iv. Above ground stormwater detention areas must be suitably signposted where required, warning people of the maximum flood level.

Note: Above ground storage of stormwater is not permitted within basement car parks or store rooms.

- j) A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored. The site stormwater system must be regularly cleaned and maintained to ensure it operates as required by the design.
- k) Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line.

- l) Any onsite detention shall be located in areas accessible by residents of all units.

Site seepage & Dewatering

42. **As the above site is likely to encounter seepage groundwater within the depth of the basement excavation the design of the car park** (and subsoil drainage from planter boxes) must comply with the following requirements:

- a) Seepage groundwater and subsoil drainage (from planter boxes etc) must not be collected & discharged directly or indirectly to Council's street gutter or underground drainage system
- b) Adequate provision is to be made for the seepage groundwater to drain around the basement car park (to ensure the basement will not dam or slow the movement of the ground water through the development site).
- c) The walls of the basement level/s of the building are to be waterproofed/tanked to restrict the entry of any seepage water and subsoil drainage into the basement level/s of the building and the stormwater drainage system for the development.
- d) Sub-soil drainage from planter boxes may discharge via infiltration subject to the hydraulic consultant/engineer being satisfied that the site and soil conditions are suitable and the sub soil drainage is able to be fully managed within the site, without causing a nuisance to any premises and ensuring that it does not drain or discharge (directly or indirectly) to the street gutter.
- e) Details of the proposed stormwater drainage system including methods of tanking/waterproofing the basement level/s and any sub-soil drainage systems (as applicable) must be prepared or approved by a suitably qualified and experienced *Professional Engineer* to the satisfaction of the Certifying Authority and details are to be included in the **construction certificate**.

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

Details must include the following information:

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

Waste Management

44. Prior to the issuing of a construction certificate for the proposed building, a Waste Management Plan detailing the waste and recycling storage and removal strategy for all of the development, is required to be submitted to and approved by Council's Director of City Services.

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

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

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

45. The proposed development must provide a compactor for the general waste (i.e. waste that cannot be recycled). The general waste garbage bin storage area shall be sized to contain the compactor (with safe working area) plus an additional 14 x 240 litre bins and with adequate provisions for access to all of the bins. Details showing compliance are to be included in the construction certificate. The compactor system shall be managed by a caretaker and the compactor is to be located in an area that is not readily accessible by residents.
46. The residential recycling room shall be sized to contain a total of 23 X 240 litre recycling bins (1 x 240 litre bins / 2 units) and with adequate provisions for access to the bins.
47. 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.

Landscaping & Environmental amenity:

48. Landscaping is to be provided to the site in accordance with the following requirements:

Detailed landscape drawings and specifications are to be submitted to and approved by the certifying authority with the construction certificate and the landscaping is required to be implemented in accordance with the approved plans and specifications. The landscape drawings and specifications are to be prepared by a qualified Landscape Architect who is eligible for membership with the Australian Institute of Landscape Architects (AILA). If Council is not the certifying authority for the development, a copy of the approved plans and specifications are to be forwarded to Council with the construction certificate.

The landscaping plans/specifications are required to include the following components:

- a) A site plan at an appropriate scale showing: existing site boundaries; existing trees within the property (clearly identified as being retained or

removed); existing street trees (clearly identified as being retained or removed); features on adjoining sites within 6 metres of the common property boundary (buildings, trees, other structures etc); council's footway; existing and proposed ground levels shown as spot heights and/or contours over the site, at site boundaries, and at the base of the tree/s to be retained; proposed building envelope; proposed areas of pavement; and proposed landscaped areas.

- b) The position, canopy spread (location of dripline), trunk diameter, height and names of all existing trees upon the site and adjoining sites within 6 metres of the common property boundary which are likely to be affected by the development.
- c) A planting plan at a scale of 1:100 or 1:200 indicating the location of all proposed planting and existing trees to be retained. All plants are to be drawn at their mature size with a dense planting of shrubs, accent plants and ground covers within all garden beds so that a continuous planted cover is achieved. Plant spacings are to be clearly indicated for all accent and groundcovers.
- d) A planting schedule listing all plants by botanic & common names, plant numbers, plant spacings for groundcovers and accent planting, pot sizes, the estimated size of the plant at maturity (height & spread) and proposed staking methods when applicable.
- e) Details of planter boxes, garden beds, soil and mulch, irrigation, landscape lighting, edging, paving, fencing, surface finishes, retaining walls, site composting, vehicle wheel-stops and any other landscape elements in sufficient detail to fully describe the proposed landscape works.

Planter boxes and garden beds constructed on slab must have a minimum soil depth of 600mm and all lawn areas must have a minimum soil depth of 300mm.

- f) Details of Tree Protection measures, including details of compliance with relevant conditions of consent.
- g) Position of existing and proposed site services including water, gas, electricity, sewer, stormwater and any easements etc.

Any required substation shall be suitably screened from view. Details of the proposed location of any substation/s including plans, elevations and proposed screening methods are to be submitted to and approved by Council prior to issuing a construction certificate.

- h) Elevations and sections through the site showing the existing and proposed groundlines, building elevations, and mature height of proposed planting.
- i) An automatic irrigation system throughout all planted areas to ensure satisfactory maintenance of the landscaping. The system shall provide full coverage to all the planted areas with no overspray onto driveways and pathways. The system shall comply with all Sydney Water requirements.

49. Any detention tanks located within the landscaped areas shall have a minimum soil cover of 600mm to ensure sufficient soil depth to permit the establishment of landscaping on top of these services as required by these conditions of development consent. Details are to be included in the relevant construction certificate and landscape plans.

50. The landscaping shall respect the prevailing coastal influences and the coast's special design considerations and requirements, and be designed accordingly. Generally, species selection are to be restricted to local indigenous coastal species that require minimal watering once established or species with water needs that match rainfall and drainage conditions.

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.

51. Conditions No. 77 to 80 of the Development Consent issued by the Land and Environment Court on 23 December 2009 for DA No. DA/81/2009 relating to Stage 1 Works shall be complied with prior to commencement of works relating to the subject development on Lot 5.

Demolition & Construction Waste

52. A Demolition and Construction Waste Management Plan (WMP) must be developed and implemented for the development, to the satisfaction of Council.

The Waste Management Plan must provide details of the type and quantities of demolition and construction waste materials, proposed re-use and recycling of materials, methods of disposal and details of recycling outlets and land fill sites.

Where practicable waste materials must be re-used or recycled, rather than disposed and further details of Council's requirements including relevant guidelines and pro-forma WMP forms can be obtained from Council's Customer Service Centre or by telephoning Council on 9399 0999.

Details and receipts verifying the recycling and disposal of materials must be kept on site at all times and presented to Council officers upon request.

Construction Traffic Management

53. Prior to the commencement of any works on the site, an Application for a 'Works Zone' and Construction Traffic Management Plan must be submitted to Council's Integrated Transport Department, and approved by the Randwick Traffic Committee, for a 'Works Zone' to be provided in Solarch Avenue for the duration of the demolition & construction works.

The 'Works Zone' must have a minimum length of 12m and extend for a minimum duration of three months. The suitability of the proposed length and duration is to be demonstrated in the application for the Works Zone. The application for the Works Zone must be submitted to Council at least six (6) weeks prior to the commencement of work on the site to allow for assessment and tabling of agenda for the Randwick Traffic Committee.

The requirement for a Works Zone may be varied or waived only if it can be demonstrated in the Construction Traffic Management Plan (to the satisfaction of Council's Traffic Engineers) that all construction related activities (including all loading and unloading operations) can and will be undertaken wholly within the site. The written approval of Council must be obtained to provide a Works Zone or to waive the requirement to provide a Works Zone prior to the commencement of any site work.

54. A detailed Construction Site Traffic Management Plan must be submitted to and approved by Council, prior to a construction certificate being issued for the development.

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

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

Sydney Water

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

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

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

The principal certifying authority must ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans before commencing works.

Public Utilities

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

Documentary evidence from the relevant public utility authorities confirming that their requirements have been or are able to be satisfied, must be submitted to the principal certifying authority prior to the commencement of any demolition, excavation or building works.

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

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

58. 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.

59. 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.

60. 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.

61. 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.

62. 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.**

63. 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.*

64. 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.

65. 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.

66. 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.

67. 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.

68. 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.

69. 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**.

E. DURING CONSTRUCTION WORKS

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

Aboriginal Archaeology

70. 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 either Section 87 or Section 90 of the National Parks and Wildlife Act may be required before works resumes.

Historical Archaeology

71. 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.

Road/Asset Opening Permit

72. Any openings within or upon the road, footpath, nature strip or in any public place (i.e. for proposed drainage works or installation of services), must be carried out in accordance with the following requirements, to the satisfaction of Council:
- a) A *Road / Asset Opening Permit* must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the *Road / Asset Opening Permit* must be complied with.
 - b) Council's Road / Asset Opening Officer must be notified at least 48 hours in advance of commencing any excavation works and also immediately upon

completing the works (on 9399 0691 or 0409 033 921 during business hours), to enable any necessary inspections or works to be carried out.

- c) Relevant *Road / Asset Opening Permit* fees, construction fees, inspection fees and security deposits, must be paid to Council prior to commencing any works within or upon the road, footpath, nature strip or other public place,
- d) The owner/developer must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a *final occupation certificate* or occupation of the development (whichever is sooner).
- e) Excavations and trenches must be back-filled and compacted in accordance with AUSPEC standards 306U.
- f) Excavations or trenches located upon a road or footpath are required to be provided with 50mm depth of cold-mix bitumen finish, level with the existing road/ground surface, to enable Council to readily complete the finishing works at a future date.
- g) Excavations or trenches located upon turfed areas are required to be back-filled, compacted, top-soiled and re-turfed with Kikuyu turf.
- h) The work and area must be maintained in a clean, safe and tidy condition at all times and the area must be thoroughly cleaned at the end of each days activities and upon completion.
- i) The work can only be carried out in accordance with approved hours of building work as specified in the development consent, unless the express written approval of Council has been obtained beforehand.
- j) Sediment control measures must be implemented in accordance with the conditions of development consent and soil, sand or any other material must not be allowed to enter the stormwater drainage system or cause a pollution incident.
- k) The owner/developer must have a Public Liability Insurance Policy in force, with a minimum cover of \$10 million and a copy of the insurance policy must be provided to Council prior to carrying out any works within or upon the road, footpath, nature strip or in any public place.

Stormwater Drainage

73. Adequate provisions must be made to collect and discharge stormwater drainage during construction of the building to the satisfaction of the principal certifying authority.

The prior written approval of Council must be obtained to connect or discharge site stormwater to Council's stormwater drainage system or street gutter.

74. Any required dewatering must be monitored by the consulting Engineer/s to the satisfaction of the principal certifying authority and documentary evidence of compliance with the relevant conditions of consent and dewatering requirements must be provided to the principal certifying authority and the Council.

The site conditions and fluctuations in the water table are to be reviewed by the consulting Engineer prior to and during the excavation/construction process, to

ensure the suitability of the excavation and dewatering process and compliance with Council's conditions of consent.

75. A separate written approval from Council is required to be obtained in relation to any proposed discharge of groundwater into Council's drainage system external to the site, in accordance with the requirements of Section 138 of the Roads Act 1993.
76. The owner/applicant is required to ensure the retention and long term health of all trees located on adjoining properties adjacent to the proposed development. As a general guide there shall be minimal excavation or root pruning within the dripline/s of the subject tree/s.

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

77. 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.
78. 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:

79. 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.
80. 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".
81. 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 10m² 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.
82. 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.
83. Building, demolition and associated site works must be carried out in accordance with the following requirements:

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

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

84. 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.

F. PRIOR TO OCCUPATION OF THE BUILDING / PREMISES

Sub-division

85. Sub-division plans for Lot 5 must be endorsed by Council and subsequently registered with the Lands and Property Management Authority prior to the issue of occupation certificate for the development. The applicant shall note that endorsement of any sub-division plan by Council will require completion of sufficient civil infrastructure (such as roads, drainage, footpaths, etc) to service the subject allotment.

Council's Infrastructure, Vehicular Crossings & Road Openings

86. Prior to issuing a final occupation certificate for the development, the owner/developer must meet the full cost for Council or a Council approved contractor to:
- a) Construct a full width concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site.
 - b) Construct a concrete footpath along the full site frontage. Any unpaved areas on the nature strip must be turfed and landscaped to Council's specification.
87. Prior to issuing a final occupation certificate or occupation of the development (whichever is sooner), the owner/developer must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
88. 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.
89. The naturestrip upon Council's footway shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu Turf or similar. Such works shall be installed prior to the issue of a final Occupation Certificate.

Service Authorities

90. The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to issuing an Occupation Certificate or Subdivision Certificate (whichever the sooner).

Stormwater Drainage

91. Conditional upon an onsite stormwater detention system being required, a "restriction on the use of land" and "positive covenant" (under section 88E of the Conveyancing Act 1919) shall be placed on the title of the subject property to ensure that any onsite detention system is maintained and that no works which could affect the design function of the detention/infiltration system are undertaken without the prior consent (in writing) from Council. Such restriction and positive covenant shall not be released, varied or modified without the consent of the Council.

Notes:

- a. The "restriction on the use of land" and "positive covenant" are to be to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's Development Engineer.
 - b. The works as executed drainage plan and hydraulic certification must be submitted to Council prior to the "restriction on the use of land" and "positive covenant" being executed by Council.
92. Upon completion of the works and prior to the issuing of an Occupation Certificate, a works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced hydraulic consultant/engineer must be forwarded to the Principal Certifying Authority and the Council. The works-as-executed plan must include the following details (as applicable):
- The location of any detention basin/s with finished surface levels;
 - Finished site contours at 0.2 metre intervals;

- Volume of storage available in any detention areas;
- The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes;
- The orifice size/s (if applicable);
- Details of any infiltration/absorption systems; and
- Details of any pumping systems installed (including wet well volumes).

93. 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, which confirms that the design and construction of the stormwater drainage system complies with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing & Drainage-Stormwater Drainage) and conditions of this development consent.

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

94. Prior to the issuing of an Occupation Certificate certification must be obtained from a suitably qualified and experienced professional Engineer, to the satisfaction of the Principal Certifying Authority confirming that the basement tanking/waterproofing and any sub-soil drainage systems (as applicable) have been provided in accordance with the conditions of consent and relevant Standards. A copy of the certification must be provided to the Council with the Occupation Certificate.

Landscaping

95. The landscaping shall be installed in accordance with the approved plans and specifications prior to occupation of the development and the landscaping must be maintained in accordance with the approved plans and specifications.

Certification is to be obtained from a suitably qualified Landscape Architect and submitted to the Principal Certifying Authority (PCA) (and Council, if Council is not the PCA) prior to the occupation of the development, which confirms that the landscaping works have been completed in accordance with the approved landscaping plans and relevant conditions of development consent, to the satisfaction of the PCA.

Waste Management

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

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

97. 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.
98. 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.

99. 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.
100. 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*.

101. 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.
102. 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.
103. 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.**

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.

- A5 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.

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