

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

JRPP No.	2016SYE031
DA No.:	DA/39/2016 – Stage 2 DA for Lot 2 to construct part 2/part 3 storey multi-dwelling housing development with roof terraces, containing 33 dwellings, basement parking for 50 vehicles, at grade parking for 8 vehicles, landscaping and associated works at 5-15 Cawood Avenue, Little Bay.
Applicant:	TA Little Bay Pty Ltd
Report By:	Development Assessment Officer – Randwick City Council

1. Executive Summary

Council is in receipt of a Stage 2 development application to construct part 2/part 3 storey multi-dwelling housing development with roof terraces, containing 33 dwellings, basement parking for 50 vehicles, at grade parking for 8 vehicles, landscaping and associated works at 5-15 Cawood Avenue, Little Bay.

The application is referred to the Joint Regional Planning Panel for determination, pursuant to Part 4 of State Environmental Planning Policy (State and Regional Development) 2011. The development has a capital investment value in excess of \$20 million.

The subject site is identified as Lot 2, located within a larger development site (referred to as the Stage 1 development site), which is 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 the subject site (Lot 2) and public domain elements. The approval for DA/81/2009 also detailed Stage 1 works comprising bulk earthworks (remediated ground levels), remediation works, and civil infrastructure works and land sub-division into the super lots.

The proposed development is permissible in the R1 zone under Randwick Local Environmental Plan 2012. The proposed Floor Space Ratio (FSR) is 0.91:1 (4,966sqm), which does not comply with the development standard restricting FSR to 0.9:1 (4,914sqm) for residential uses within the site. The applicant has submitted a request under Clause 4.6 of the Randwick Local Environmental Plan 2012 (RLEP) to vary the development standard in relation to FSR.

An assessment of the request is detailed in this report, indicating that in this instance, strict compliance with the control is unreasonable and unnecessary. The variation proposed is a technical variation, which has no perceptible bulk, or scale above that envisaged by the Stage 1 plan, and arises as a consequence of four basement car parking spaces being calculated as floor space as they are in excess of the parking required under the Randwick Development Control Plan 2013 (RDCP). In addition, the proposed floor space area of 4,966sqm is less than the 5,000sqm approved for the subject site under the State 1 Plan. In other words, when the proposed floor area is calculated in the context of the overall Stage 1 development site, the proposal will be compliant with the maximum FSR of 0.9:1. Additionally, the proposal is consistent with the overall building height control as required under the Stage 1 Plan; has a bulk and scale that will be compatible with that envisaged under the Stage 1 Plan and in particular the urban character established within the Prince Henry site; and will not compromise the amenity of surrounding residential areas.

The proposal is generally consistent with the controls contained within the Stage 1 Plan with minor variations relating to maximum 11m external wall height, maximum 1.2m basement protrusion above the remediated ground levels (RGL) - a consequence of the uniquely sloping site. The proposed development also results in a minor shortfall in the minimum 35% landscaped area and minimum 8m western rear boundary setbacks of two dwellings fronting Lapwing Street (at the eastern end of the site). These variations have been addressed within the assessment report and are considered acceptable in the context of the site.

The application is considered suitable for approval subject to conditions.



Figure 1: Aerial photomontage of the development within the subject site and surrounding developments and wider area.

2. Site Description and Locality

2.1 Stage 1 site- 1408 Anzac Parade, Little Bay.

The stage 1 development site is located at 1408 Anzac Parade, Little Bay (Lots 10 and 11 of DP 1127716). The stage 1 development site (referred to hereafter as the Stage 1 development site) is located on the eastern side of Anzac Parade with a total area of approximately 13.6 hectares, abutting residential development to the north and south, with the greens and landscaped areas of the Coast Golf and Recreation Club immediately to the east.

The site formerly contained various UNSW facilities including sporting fields, a Biological Research Centre and Solarch buildings. The central and eastern portions of the Stage 1 site are of ecological and geological significance, with the presence of a watercourse containing registered Ochre and Miocene Site (traditionally harvested for use by Aboriginal communities), the Little Bay Geological Site and constructed dams (watercourses) in the central section. A small portion of Eastern Suburbs Banksia Scrub (ESBS) remnant is also located along the eastern boundary with the main ESBS remnant being located on adjoining land to the east in Lot 12 DP 164309, which does not form part of the Stage 1 development site. The Stage 1 consent noted by way of condition, that development in all areas adjacent to the geological site would be required to have regard to the heritage significance of the geological site. The portion of the Stage 1 site

forming the subject of this assessment, known as Lot 2, is adjacent in a north-westerly direction to the Little Bay Geological site, as shown in Figure 1, below.

A Land and Environment Court consent of 23 December 2009 granted Stage 1 approval on the site under DA/81/2009, adopting a Stage 1 Plan to inform future Stage 2 development proposals. A subdivision plan created 28 residential lots, ten (10) super lots, open space and an internal street network (shown below, in Figure 1). The application the subject of this assessment consists of the northern-most super lot on the site, known as Lot 2. It should be noted that Lot 2 and all other allotments within the Stage 1 development site have been registered with Lands and Property Management Authority (formerly Land Titles Office).

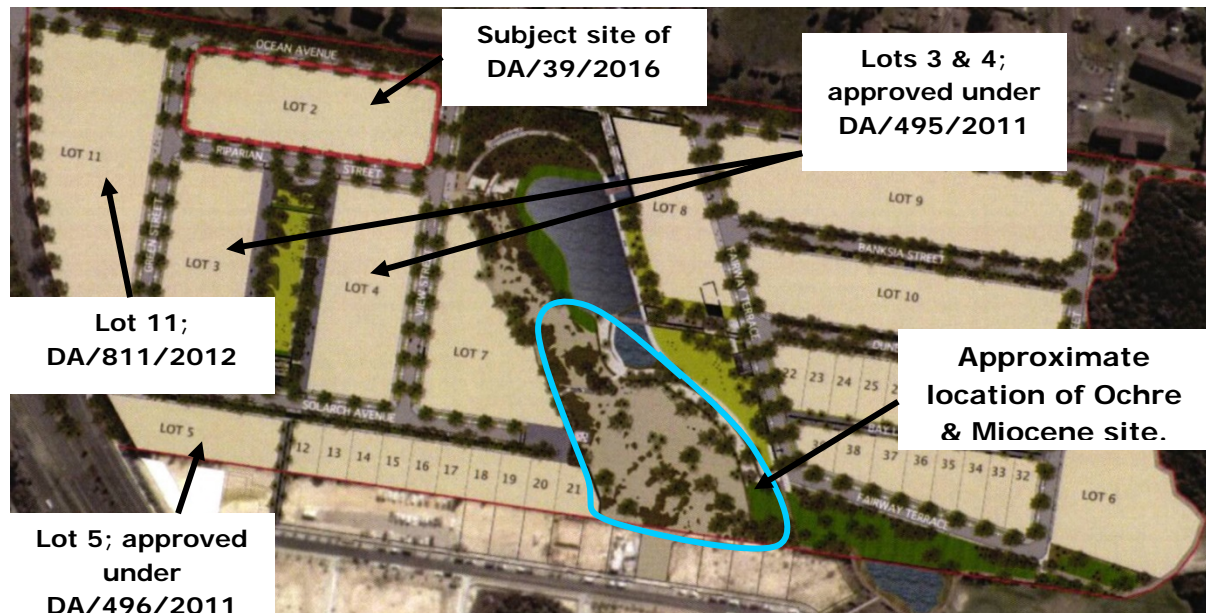


Figure 1: Approved Stage 1 subdivision plan of 1408 Anzac Parade per DA/81/2009. Subject site bound in red. Past Stage 2 approvals identified. Aboriginal Heritage site in blue.

The Stage 1 development site has been subjected to extensive bulk earth and remediation works, approved under the Stage 1 consent. The overall site is generally level except for the subject site which falls more steeply from the western end of lot 2 down to its eastern and south eastern end and further east into a depression containing the Ochre and Miocene Site and watercourse in the central portion. The stage 1 site then slopes down gently west to east in the vicinity of the Coast Golf Course.

2.2 Subject Stage 2 site- Super lot 2

Lot 2 is rectangular in shape with a total area of 5460sqm. The site has a northern and southern boundary of 130m along Cawood Avenue to the north and Belbowrie Street to the south, and a 43m long boundary to the west at Galaup Street and to the east at Lapwing Street. The remediated ground levels of the site have a 1.6m cross fall from north to south and 3.2m from west to east. The RL levels of the site are shown in figure 2 below.



Figure 2: Remediated ground levels of the subject lot 2.

The wider context of Lot 2 comprises, to the north, the existing Department of Housing low to medium density residential area. Located to the west is super lot 11 the subject of stage 2 approval (DA/811/2012), to the south are two (2) super lots (Lot 3 & 4) the subject of Stage 2 development approval (DA/495/2011) and to the west the above-mentioned open space containing the Ochre and Miocene Site and watercourse. Further afield to the south west sits another super lot (Lot 5) the subject of separate Stage 2 development approval (DA/496/2011) and residential flat building developments within the Prince Henry development site. To the west across Anzac Parade is generally low to medium density residential development.

3. Site History:

The greater site at 1408 Anzac Parade has been the subject of a number of historical approvals:

DA/264/2007	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	Application to subdivide the land known as Lot 1 DP 164309 into three (3) separate Torrens Title allotments. The details of the subdivided allotments outlined:	Approved 18 January 2008
	<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; ▪ 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 11 November 2008
DA/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. The extent of the Stage 1 site is shown in Figure 2, below.	Approved by Land & Environment Court 23 December 2009.

3.1 Stage 2 approvals to date:

Within the above mentioned Stage 1 Master Plan, the following Stage 2 applications have been approved by the JRPP to date. The applicable lots are also identified in Figure 1, above:

DA/495/2011	Lots 3 & 4	Construction of 66 two (2) and three (3) storey terrace dwellings with basement parking for 132 vehicles, landscaping and associated works.	Approved by JRPP on 5 October 2011.
DA/496/2011	Lot 5	Construction of a five (5) storey multi-unit residential flat building containing 45 apartments, basement parking for 47 vehicles and landscaping.	Approved by JRPP on 5 October 2011.
DA/812/2011	Lot 11	Stage 2 DA for Lot 11 to construct three(3), five (5) storey residential flat buildings containing 179 apartments, basement parking for 226 vehicles and associated landscaping works at 1408 Anzac Parade, Little Bay.	Approved by JRPP on 15 February 2012

3.2 Application History

Pre-lodgement discussions (per PL/28/2011) were held with the applicant (1 July 2011) regarding the subject Lot 2. A copy of the scheme was referred to the SEPP 65 Design

Review Panel throughout this process, who provided comments generally supportive of the scheme. The following elements have been incorporated into the current scheme:

- Permeable paving for driveways to the north facing Cawood Avenue;
- Internal reconfiguration to enable casual surveillance;
- Maximisation of the planting zone at the rear of the terraces;
- Location of mechanical exhaust elements;
- Additional visual interest across the façade through use of materials and articulation
- Reduction of floor area;

The subject application (DA/39/2016) was lodged on 28 January 2016. Council received additional documentation in response to the comments made by the DRP and Council notations about non-compliant protrusion of the basement above the remediated ground levels. The assessment below is based on the originally submitted documentation and additional justification provided.

4. The Proposed Development

The subject application seeks Stage 2 DA for Lot 2 to construct part 2/part 3 storey containing 33 dwellings comprising 25 terraces classified as residential flat building as they are located over basement and 8 attached dwellings (located within their own allotments), basement parking containing 50 spaces and 8 spaces at ground level for the attached dwellings fronting Cawood Avenue. The proposed development also seeks landscaping and associated works. The development is proposed to contain 27x 3 bedrooms terraces and 6 x 4 bedroom terrace located at the lower end of the site fronting Lapwing Street.

Subdivision is not sought as part of this application.

4.1 The Built Form

The proposed built form details two (2) building classifications, the multi-unit housing development comprising terraces located over a basement in horseshoe configuration; and a row of eight (8) terrace houses facing Cawood Avenue (No. 2 – 9) with on grade parking. The terraces vary in scale between two to three storeys with roof top terraces above all terraces except those facing Galaup Street higher levels of the subject site. The façade heights across all street frontages range between 7.3m and 10.53m. The terraces above are well setback from the street facades and have a height of up to 11.8m above interpolated ground levels. The overall heights of the development do not exceed the 12m maximum building height standard in the RLEP 2012.

Landscaped areas are contained along the sites perimeter within the front setbacks. The major areas of open space and landscaping are located at the rear of each of the terraces. Private open spaces are also provided at roof level for terraces facing Cawood Avenue, Lapwing Street and Belbowrie Road.

The basement level protrudes above the remediated ground levels by varying degrees. The parking provided on site contains provisions 8 ground level parking spaces for the 8 attached dwelling terraces facing Cawood Avenue, in the basement level 50 parking spaces are provided two each for the terraces located over basement. No bicycle or motorcycle spaces are shown. Vehicular access is proposed from the south eastern end of the site off Belbowrie Road.

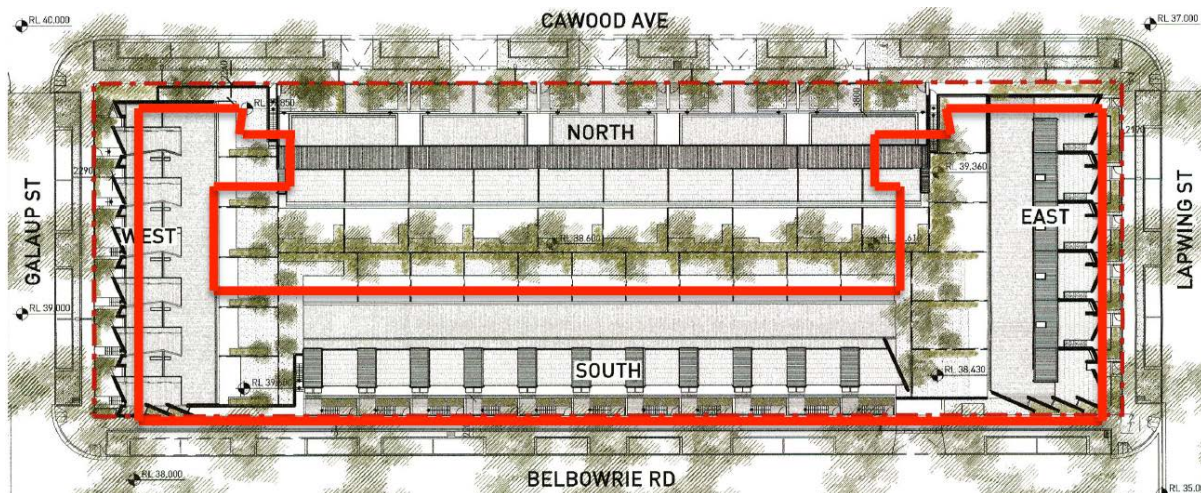


Figure 3: Site plan showing bounded in red the general location of the basement level underneath.

4.2 Development Statistics

The primary development statistics are summarised within the application as follows:

Component	Proposal
No. of dwelling units	33 terrace houses
Mix	27 three bedroom terraces facing north south and west 6 four bedroom terraces facing east
Parking	50 basement car spaces 8 ground level parking spaces for eight terraces facing Cawood Avenue. 33 bicycle spaces 3 motorcycle spaces
FSR	0.91:1 (4,966sqm)
Max Building Height	11.8m
Setbacks Setback controls vary across each street frontage	The proposal generally complies with the setback controls except for rear setback of two terraces facing Lapwing Street.
Landscaping	Landscaped area: 49% of total Lot area (approx. 2672sqm). Deep Soil: 33% of Lot area (approx. 1802sqm)

Table 1: Summary of proposed development statistics.

Vehicular access to the site is provided by way of a driveway ramp from Belbowrie Road, located to the eastern end of the lot. The proposal will also involve associated landscape works and provision of utility services.

An assessment of the proposed development against the provisions of relevant policy controls and the adopted Stage 1 Plan is detailed in Section 8 of this report.

5. Relevant Environmental Planning Instruments and Policy Controls

5.1 Environmental instruments

The following statutory Environmental Planning Instruments apply in the assessment of the proposed development, and are addressed in detail in Section 8 of this report:

1. State Environmental Planning Policy (State and Regional Development) 2011
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
5. Randwick Local Environmental Plan (RLEP) 2012

Further to the application of Randwick Local Environmental Plan 2012 (RLEP 2012), the following clauses are relevant to the proposal:

- Land use Table: R1 General Residential zone
- Clause 4.3: Height
- Clause 4.4: Floor Space Ratio
- Clause 4.6 Exceptions to a development standard
- Clause 5.10: Heritage Conservation
- Clause 6.2: Earthworks

An assessment of the proposed development in relation to the above statutory instruments is provided in this report:

5.2 Policy Controls

The following policy controls apply in the assessment of the proposed development are elaborated upon below:

- Stage 1 Plan (approved by the L&E Court; 27 December 2009);
- Randwick Comprehensive Development Control Plan (RDCP) 2013
- Randwick City Council Section 94A Contributions Plan.

6. Notification/ Advertising

The application was advertised and notified in accordance with Randwick Development Control Plan 2013 and the EPA Act 1979.

No submission received by Council in response to the advertising of the application.

7. Technical Advice: Internal and External

7.1 Heritage Planner comments

The development application was referred to Council's Heritage Planner for comments. No objection is raised to the proposed development subject to conditions of consent. The following is an extract of the response received:

The Site

The subject site is located on the eastern side of Anzac Parade, immediately to the north, and was once a part of, the former Prince Henry Hospital site. The site has subsequently had a series of uses including agriculture, clay and sand mining, waste and landfill, sporting use and use by the University of NSW (solar architecture and animal research). The Coast Golf Course extends to the east and south east of the site. The site slopes away from a plateau adjacent to Anzac Parade, and includes low lying ponds in the central area.

Existing Site Features and Structures

The eastern part of the site is within the Prince Henry Hospital Conservation Area, but outside the Prince Henry Site which is listed on the State Heritage Register. The Statement of Significance for the Conservation Area notes the aesthetic, historic and technical/research significance of the area. In relation to technical/research significance, the Statement of Significance notes that there are two large ponds on the property which are a habitat for native bird species and a vulnerable bat species. The site includes part of the Little Bay Geological Site which extends into the adjacent former Prince Henry Hospital site. The Geological Site comprises a 22 million year old stream valley exposed by 20th century clay and sand mining. The Geological Site is significant at a national level, providing scientific evidence of the climate and environment of the Miocene period. The elements identified with Geological site comprise a Palaeovalley, a Cleared Area and a Critical Exposure Area. The site contains an Aboriginal Identified Site comprising a potential ochre site. The site also includes an area of Eastern Suburbs Banksia Scrub which extends further to the east beyond the site.

Background

DA/81/2009 for a residential subdivision of the site included a network of public open space, was approved in December 2009. The street layout was in the form of a modified grid, with new housing varying from 1-2 storeys to 4-5 storeys, with higher development generally at the eastern and western edges of the site. The proposal included fairly extensive changes to existing site levels.

This Stage 1 Plan for the site included subdivision, street and open space layout, and creation of a number of superlots and individual house lots. The Stage 1 Plan includes public domain elements and private domain controls. Public domain elements include street and open space layout, and drainage and planting concepts. Private domain controls cover dwelling types, building heights and densities, setbacks, landscaping, dwelling design and materials.

Proposal

The application proposes construction of a two and three storey development over basement carparking. The proposed development is in a courtyard configuration with four blocks facing each of the streets surrounding the site. The central courtyard is fenced to provide private gardens for surrounding dwellings. The northern facing block comprises town house type dwellings with a ground level garage, while the other three blocks comprise apartment type dwellings. While the eastern block facing Lapwing Street comprises three storeys, the south block to Belbowrie Road comprises 2 ½ storeys, and the north (Cawood Avenue) and west (Galaup Street) blocks comprise two storeys. Projections at rooftop level are related to access and shading of roof terraces. External wall materials include fc sheeting, metal cladding and louvres.

Submission

The original application submission included an Aboriginal Heritage Impact Assessment prepared by Archaeological and Heritage Management Solutions which assessed archaeological potential, preparing detailed mapping of the ochre site, assessing the impact of the proposal and made management recommendations. The potential ochre site is of cultural significance to the local Aboriginal community, and demonstrates Aboriginal occupation and life prior to European colonisation. Consultation with the La

Perouse Aboriginal Land Council has informed open space layout and construction methods, and the LPALC are to be involved in the ongoing management of the site. Management measures include a Voluntary Conservation Agreement under the National Parks and Wildlife Act to ensure appropriate protection and management of the site, and preparation of a Plan of Management for the Central Corridor.

The current application has been accompanied by a Statement of Environmental Effects which includes a section addressing Heritage Conservation. The SEE notes that the site is adjacent to the Prince Henry site heritage conservation area, but is not anticipated to have any impact on the heritage significance of the area.

Comments

The design of the new building should be consistent with the provisions of the private domain controls contained in the Stage 1 Plan including building setbacks and heights, and dwelling design and materials. The proposed building will have no impact on the Aboriginal heritage significance of the potential ochre site and will not impact on the significance of the Geological Site.

Recommendations

No additional consent conditions are required.

7.2 Development Engineering Comments

The development application was referred to Council's Development Engineering Unit for comments. No objection is raised to the proposed development subject to conditions of consent. The following is an extract of the response received:

Council is in receipt of a Stage 2 development application to construct part 2/part 3 storey multi-dwelling housing development with roof terraces, containing 33 dwellings, basement parking for 50 vehicles, at grade parking for 8 vehicles, landscaping and associated works at 5-15 Cawood Avenue, Little Bay.

Drainage Comments

Onsite stormwater detention would only be required if a portion of the site ultimately drained to Anzac Parade. The drainage concept plan shows stormwater discharging to the south east and therefore no onsite detention conditions have been included within this report.

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

Traffic Comments

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

Vehicle Parking

Vehicle Parking for multi-unit housing is to be provided in accordance with the following rates;

1 space per 2 studio units (<40m²)

1 space per 1 bedroom unit (over 40m²)

1.2 spaces per 2 bedroom unit

1.5 spaces per 3 bedroom unit

1 visitor space per 4 units (but none where development is less than 4 dwellings).

Motorbike Parking

Motorbike Parking is to be provided at 5% of the vehicle parking requirement.

Bicycle Parking

For Flats/multi dwelling bicycle parking to be provided at 1 space per 2 units plus 1 visitor space per 10 units

Service and Delivery Parking

Service and Delivery Parking is to be provided at the rate of 1 space per 50 units up to 200 dwellings, plus 1 space per 100 dwellings thereafter.

Planning Comment: No service delivery space is provided. It is not considered a space is necessary given service spaces are generally shared with visitor spaces (which are contained on the street) and there is access to each dwelling off the street.

Residential Parking

A total of 25 double garages have been provided in a basement carpark for 25 dwellings. The dwellings are 3 or 4 bedroom and therefore the quantum of parking is compliant.

A total of 8 on-grade garages are provided along Cawood Avenue, (serving dwellings 2 to 9 inclusive). The applicant's traffic engineer has stated that space is available in front of these garages for an additional parking space, (i.e. tandem parking for 2 cars). Whilst Council does not object to the provision of tandem parking - the dimensions of the proposed 2nd carspaces are unsatisfactory. A condition of consent has been included within this report requiring amended details.

Visitor Parking.

It is noted that visitor parking is proposed to be provided on the street in the vicinity of the development. Generally this is not supported however the Land and Environment Court approval for the development site supported visitor parking being accommodated on the street. The applicant successfully argued that sufficient on-street parking would be provided for both visitor parking and "destination" parking. The development site has on-street spaces in Cawood Avenue, Lapwing Street, Belbowrie Road and Galaup Street (fronting the development site).

Parking Layout

Carspace Dimensions, aisle widths, ramp grades, head clearances etc. shall fully comply with the requirements of Australian Standard 2890.1:2004. Future plans submitted for the development application shall demonstrate compliance with the standard. Further information on car manoeuvrability demonstrating car sweeping paths using the B-85 design vehicle in AS 2890.1:2004 may be required.

Service Authority Comments

Standard service authority conditions have been included within this report. The Stage 1 subdivision works required all power cables to be located underground.

Notwithstanding there is an existing substation within the development site a condition of consent requiring Ausgrid sign-off on the current energy supply has been included within this report.

Waste Management Comments

The Waste Management Plan submitted with the application is generally satisfactory.

Conditions requiring compliance with this plan have been included within this report.

Landscape Comments

Due to extensive remediation and site establishment works, there is no vegetation at all within this Lot; however, there are juvenile *Eucalypts* on the grass verges around the perimeter of the site, comprising three along Galaup Street, eight on Cawood Street, two on Lapwing Street and seven on Belbowrie Road, which are important for ensuring this development will be successfully integrated into the respective streetscapes.

While laybacks, kerbs and verges are already provided, basic protection measures still need to be imposed to prevent secondary impacts associated with damage from trunks, delivery of materials and similar, and have been imposed.

The submitted Landscape Plans propose a combination of soft and hard works within both the front and rear courtyards, and while the DRP has stated a desire to create a 'common' landscape strip in an east-west arrangement through the centre of the site, the assessing officer is not in favour of this initiative, so specific conditions have been included requiring strategically located feature trees so as to maximize future privacy and screening between the dwellings.

7.3 SEPP 65 Design Review Panel

Under the provisions of SEPP 65, the Joint Randwick/Waverly Design Review Panel reviewed the proposal on 8 February 2016. The Panel found the proposal satisfactory subject to a number of suggestions as reflected in the Panel's comments below (followed by Council's comments, where noted):

PANEL COMMENTS

The Panel has previously reviewed and commented on the approved Stage 1 DA for the site, and on a Pre DA for this block. Previously, Philip Thalys declared an interest and did not participate in the review or discussion.

The Panel is familiar with the site and the planning framework.

The proposal is for 33 terrace houses of 2 and 3 storeys: 27 with 3 bedrooms and 6 with 4 bedrooms. Each townhouse has direct access to private car parking below except for 8 dwellings facing north onto Ocean Street that have on-grade parking garages.

Principle 1: Context and Neighbourhood Character

The proposal appears to comply with the Stage 1 Master Plan for the site (Revision D August 2009).

As requested in the Panel's report of June 2011, the context of the surrounding blocks has been adequately described in this thorough application.

In the Panel's view, subject to comments made below in Section 9, the proposed development should make a positive contribution to its evolving neighbourhood.

Principle 2: Built Form and Scale

The scale of the proposal is generally consistent with the Master Plan and the location.

The Panel's previous comments are repeated below in *Italics where relevant*.

While generally endorsing the scheme, the Panel wishes to raise a number of matters for the applicant's consideration.

The townhouses fronting Lapwing (previously Riparian) Street could have more activation to and interaction with the street. It would be more livable if the kitchen could have a window / shutter to the street. Perhaps the laundry and wc could be combined or turned through 90°.

A section through the east facing townhouses showing height relationships with the driveway, landscape and north/south townhouses is required. This has been provided and is satisfactory

The distance between rear facades generally complies with RFDC recommendations, but even so the issues for the rear courtyards are privacy, anonymity and lack of diversity. The use of a transition space to the upper bedrooms such as a small screened balcony, external adjustable blinds or other may increase the privacy (and comfort) levels.

As these windows are exposed to east or west sun, external retractable louvres could be a good solution.

Variations in rear setbacks can also do a lot to break down the row house look

The slightly overstated pitched and screened elements to the street would be considered appropriate if they have environmental and privacy screen functions and tie in with a roof-light design.

The north and south elevations of the east /west townhouses should be suitably varied to suit orientation and access to outdoor space.

The Ocean (now Cawood) Street elevation would be acceptable only if the screens remain totally operable (rotating blades and retractable in two separate drops) so that the interior spaces are not compromised.

See comments below on the above issues.

The issue of wheelchair accessibility to some townhouses should be considered where possible. One section of the townhouses of three units could be changed to flat floor apartments served by a lift from their carpark level

Overshadowing into private open space needs to be checked, particularly for the corner townhouses. This does not appear to have been provided.

The provision of individual roof terraces is strongly supported, as this will afford residents with wonderful views, and enliven the roof scape.

The basement arrangement is generally economical, and leaves the centre of the block and the street setbacks available for deep soil planting, which is strongly commended. Further strategies are incorporated;

- To Lapwing Street, a bedroom with deep front garden screens the car park, and provides a larger scale to this frontage, as is appropriate
- The houses facing Belbowrie Road sit a storey above the street on a car park plinth. The architects have sensibly provided a window into the garage, as such spaces are commonly used for more than storing cars. The Panel suggests that a door could also be provided here, to provide direct access to the street and front garden. The details of the window opening need to be made clearer, as a combination of access, light and air would make the garage spaces far more useful to future residents

Planning comment:

Louvres

In relation to the recommendation regarding the use of retractable louvres to shield from east and west facing sun, it is considered that the fixed louvres are acceptable and there is no policy requirement for retractable louvers under the Stage 1 Plan. In addition, the proposal complies with all relevant BASIX requirements.

Variation of terraces

In relation to variety across the façade it is considered that this is achieved through the use of varying colours, stepped elements of the elevations and mix of materials.

Adaptable dwellings

See comments in the key issues section of this report.

Principle 3: Density

The Panel sees no reason for concern with the slight increase of FSR over the approved density. There would be no advantage in having a lesser building volume on such a site.

Principle 4: Sustainability

Generally the proposal has the potential for good passive solar design. Sun-shading strategies appropriate to orientation, natural ventilation opportunities and ceiling fans to all bedrooms will be required.

All dwellings have a thin cross section, and benefit from both cross and stack effect ventilation. However through ventilation could be more effective if the central stair was a little more permeable rather than solid.

Ceiling fans should be provided in habitable rooms and shown on the drawings.

As noted above, external louvres should be provided to bedrooms.

Planner comment: A condition is included requiring ceiling fans to be provided to all habitable rooms.

Principle 5: Landscape

The deep soil areas to the centre of the lot are ideal for trees however maintenance issues should be given consideration.

All dwellings have their own private front and more generous rear gardens, which sensibly aggregate in the centre of the block as is commonplace in terrace house arrangements. However the Panel notes that to carry out landscape maintenance access must be through private strata property. Trees in the centre of the site are noted as important for privacy but might not be suitably managed by individual owners and, in the long, will be impossible as trees increase in size. The applicant should consider the provision of a narrow central lane for this purpose – the property of the body corporate. It could be designed so as to make it properly secure.

The lack of deep soil to the east / west townhouses' private outdoor space should be reconsidered and will need to be carefully considered by the landscape architects.

This issues is still to be addressed.

Any site remediation and relationship to ground levels needs to be clarified.

Remediation and levels have been documented.

Hard landscape treatment of the driveways (pergolas, trellises or the like) should be considered to reduce their impact.

Due consideration has been given to these issues.

Planning Comment: The terraces will operate as separate dwellings and a central corridor is not considered manageable. In order to ensure retention of planting in the rear of these properties a condition is included requiring that significant trees approved as part of the landscape plan not be removed by owners of the development unless Council permits the removal.

Principle 6: Amenity

The units are generally well planned. Some small improvements, as noted above, could be incorporated to improve cross ventilation and privacy.

The introduction of small screened balconies to the upstairs bedrooms would vastly improve livability and outdoor terraces should be provided with an area of weather protection.

In the Panel's opinion this amendment should be made

Planning comment: The site constraints and required setbacks preclude the provision of additional balconies which would have minimal benefit when considering that these

are low use rooms and openings within the development are considered suitable for the purposes of amenity.

Principle 7: Safety

This should be satisfactory

Principle 8: Housing Diversity and Social interaction

This block contains a range of terrace house types, whereas other blocks have apartments. Overall, this should assist in providing additional housing choices in the area. As noted above, provision should be made for some accessible units.

Principle 9: Aesthetics

This is a strong and cohesive design that is perhaps a bit too “defensive” and impersonal – lacking now and, as it will be strata titled and is done “in one lump”, never will have the charm of varied detail that a Paddington street exhibits. The Panel supports the colour scheme proposed, that is clearly intended to provide some variation along the street, but considers that it alone will be inadequate.

It is suggested that consideration should be given to the external treatments to reduce the slight monotony that is a product of trying to achieve privacy. For example sometimes the colour could be carried out along the walls that define individual houses (even giving purchasers the opportunity to choose colours from a given spectrum), different concrete textures, varying the design of handrails, railings and gates, possibly more than one choice of front door design, modifying roof profiles, establishing a variety of plant material and landscape themes, etc. (All the things that serve to make a walk through Paddington and other inner suburban streets interesting.) None of these suggestions would in any way detract from the quality and strength of this design.

Planning Comment: It is considered that the applicant has provided reasonable justification for not requiring additional variation in the facades of the development which reads as follows:

“The facades are highly modulated, with variously stepped elements expressing a variety of overlapping rhythms. A degree of variation has been designed through a varied material/colour palette and louvre positioning across the facades, and this will be enhanced by variations in landscaping, outdoor furnishings and window dressings. Over time this diversity will continue to develop, particularly within the private front gardens of individual townhouses. Rather than creating a forced / chaotic aesthetic, variety has been incorporated within an overarching architectural coherence and individual occupant choices will reinforce visual variety over time. We therefore request that the proposed façade treatments, material and colour schedule remain as proposed”

SUMMARY AND RECOMMENDATIONS

This is a good proposal. The Panel is pleased to support it, but non-the-less wishes to briefly review it again (as a referral rather than necessarily at a meeting) after the applicant and council planners have considered the comments and recommendations made in this report

Overall the proposed development is considered to satisfy the principles under SEPP 65.

8. Section 79C Considerations:

The following sections summarise the assessment of the proposal against the relevant heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979.

(a) The provisions of:

(i) Any Environmental Planning Instrument:

8.1 State Environmental Planning Policy (State and Regional Development) 2011

The provisions of SEPP (State and Regional Development) 2011 apply to the proposed development, as the capital investment value is in excess of \$20 million. The submitted application is referred to the Joint Regional Planning Panel (Eastern Region) for determination in accordance with the applicable provisions of SEPP (State and Regional Development) 2011.

8.2 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 development consent (DA/81/2009) for the Stage 1 Plan included, among other things, remediation. The applicant indicates that the site has been remediated as part of a Remediation and Validation Report prepared by AECOM in March 2014 certifying that the site is suitable for residential use.

8.3 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 this report.

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

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

8.5 Randwick Local Environmental Plan 2012

The subject site is zoned R1 general residential under the Randwick Local Environmental Plan 2012. The proposal is permissible in the zone with Council's consent.

The following relevant clauses apply to the proposal:

Clause	Requirement	Proposal	Compliance
Clause 1.2	Clause 1.2 of RLEP 2012 lists the aims of the RLEP which generally correlate with the relevant clauses and objectives contained with the plan that are relevant to the development of the subject site and the surrounding area.	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. The proposed development will contribute to a	Yes

Clause	Requirement	Proposal	Compliance
		variety of housing within the locality and will not compromise the amenity of the residential area. The proposal is generally consistent with the specific zone objectives, as below.	
Land use table R1 zone objectives	<p>Objectives of the zone</p> <ul style="list-style-type: none"> ○ To provide for the housing needs of the community. ○ To provide for a variety of housing types and densities. ○ To enable other land uses that provide facilities or services to meet the day to day needs of residents. ○ To allow the comprehensive redevelopment of land for primarily residential and open space purposes. ○ To protect the amenity of residents. ● To encourage housing affordability. 	<p>The proposed use is permissible in the 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
Clause 4.3 Height of buildings	12m	11.8m	Yes
Clause 4.4 Floor space ratio	0.9:1	0.91:1	No. Refer Section 8.1 for request to vary the development standard under Clause 4.6 of the RLEP.
Clause 5.10 Heritage Conservation	Requires among other things, that, for development sites in the vicinity of a	The subject site is located adjacent to the Prince Henry Hospital Heritage Conservation	Yes

Clause	Requirement	Proposal	Compliance
	Heritage Conservation Area, Council must consider the effect of development on the heritage significance of the heritage conservation area	Area. The site is also located opposite the Ochre Site and the Critical Exposure Area of the Little Bay Geological Site. Council's Heritage Planner considers that the proposed development will not result in any significant adverse impacts on the significance of the area. See further discussion throughout this report.	
Clause 6.2 Earthworks	<p>Consideration is required to be given to the following matters:</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p>	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. Lot 2 will be required to be regraded to these levels in accordance with that established under the Stage 1 plan and works.	Yes

Clause	Requirement	Proposal	Compliance
	(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.		

Randwick Local Environmental Plan (RLEP) 2012

Floor space ratio (FSR)

The proposed development has a floor space ratio of 0.95:1 and does not meet the relevant standard in Clause 4.4 of the RLEP 2012.. The proposed variation to the maximum floor space ratio standard is summarised in the table below:

	FSR and variance
Development Standard	0.9:1
Proposal	0.91:1*
Excess above RLEP Standard	1.11%.

Table 2: Variation to the FSR standard

Request to vary FSR development standard

The applicant has submitted a written request seeking to justify the contravention of the maximum floor space ratio standard contained in clause 4.4 of RLEP 2012, pursuant to Clause 4.6 of RLEP 2012. Amendments received (4 April) during the assessment of the application deleted a ground level apartment replacing it with parking, plant and service areas which are not counted as floor area (RLEP dictionary)..

Assessment against the applicant's written justifications for the contravention of the development standard

Pursuant to clause 4.6(3) of RLEP 2012 development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

Further, the consent authority must be satisfied that:

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by sub clause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

The concurrence of the Director-General of the Department of Planning and Infrastructure must also be obtained for development that contravenes a development standard. However, pursuant to the Notification of assumed concurrence of the Director-General under clause 4.6(4) (and the former clause 24(4)) of the Standard Instrument contained in Planning Circular PS 08–003 (dated 9 May 2008) the concurrence of the Director-General of the Department of Planning and Environment under clause 4.6(4)(b) of RLEP 2012 may be assumed in certain cases.

In relation to the matters required to be demonstrated by sub clause (3) there are various ways that may be invoked to establish that compliance with a development standard is unreasonable or unnecessary as discussed by Chief Justice Preston of the NSW Land and Environment Court in the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827. Although the *Wehbe* case was decided in relation to State Environmental Planning Policy No 1—Development Standards (“SEPP 1”) and not clause 4.6 of RLEP 2012 it remains of some assistance in relation to identifying the ways in which an applicant may demonstrate that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. These steps are addressed as follows:

Has the applicant’s written request adequately addressed that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?

In the *Wehbe* case Justice Preston said the most commonly invoked way to establish that compliance with a development standard is unreasonable or unnecessary is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The objectives of the floor space ratio standard are set out in clause 4.4 of RLEP 2012 as follows:

(1) *The objectives of this clause are as follows:*

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

The applicant has provided the following arguments (addressing both the objectives of the standard and the R1 medium density zone) in support of the Clause 4.6 exception:

Floor Space Ratio

Clause 4.4 provides objectives and controls relating to the maximum floor space ratio for buildings within the LGA. The maximum floor space ratio for Superlot 2 is 0.9:1.

Superlot 2 has a site area of 5,460m² and a gross floor area of 4,966m² is proposed. This equates to a floor space ratio of 0.91:1, exceeding the maximum floor space ratio control of 0.90:1 by 52m².

The following Table provides a comparison of the permissible and proposed gross floor area and floor space ratio against the Little Bay Stage 1 Plan and Randwick LEP 2012.

TABLE 1 – PERMISSIBLE AND PROPOSED GFA AND FSR

	PERMISSIBLE (RLEP 2012)	PERMISSIBLE (LITTLE BAY STAGE 1 PLAN)	PROPOSED	DIFFERENCE
Gross Floor Area	4,914m ²	5,000m ²	4,966m ²	52m ²
Floor Space Ratio	0.9:1	–	0.91:1	0.01:1

The building design for Superlot 2 and the Little Bay Stage 1 Plan were originally prepared in accordance with the formerly applicable Randwick LEP 1998, which excluded all car parking from the calculation of GFA. However, since the approval of the Stage 1 Plan the Randwick LEP 2012 came into effect, replacing Randwick LEP 1998. The Randwick LEP 2012 is a standard instrument template LEP that only excludes “*car parking to meet any requirements of the consent authority*”. In contrast, the Randwick LEP 1998 excluded all “*associated car parking and any internal vehicular or pedestrian access to that parking*”

It has always been the intent that Lot 2 would comprise terrace house style dwelling, with each dwelling having access to its’ own independently accessed double garage below. While dwelling houses are required to provide 2 car parking spaces, the combined basement of much of the proposed design results in many of the proposed dwellings technically being defined as residential flats, which are only required to have 1.5 car parking spaces per dwelling. It is nevertheless proposed to still provide 2 car parking spaces per dwelling, resulting in 4 more spaces than required. Under the revised provisions of the Randwick LEP 2012, these spaces equate to a GFA of 52m², as they are not necessary to comply with Council’s requirements.

Therefore, as provided for under Clause 4.6 of the Randwick LEP 2012, we request that Council take a flexible approach to the application of the FSR control to the proposed development. The following section addresses the local provisions of Clause 4.6 of Randwick LEP 2012 together with principles of *Winten v North Sydney Council* as expanded by the five (5) part test established by *Wehbe V Pittwater [2007] NSW LEC 827* and refined by the judgement of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*.

1. Is the planning control in question a development standard?

The planning control in question is Clause 4.4 of the Randwick LEP 2012. Clause 4.4 nominates a maximum FSR control of 0.9:1 for superlot 2. As a measurable numeric control, the subject control is clearly a development standard capable of being varied under the provisions of Clause 4.6 of the Randwick LEP 2012.

2. What is the underlying objective of the standard?

The stated objectives of the FSR development standard provided at subclause 4.4(1) of Randwick LEP 2012 are:

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

The proposed development is consistent with the above objectives because:

- The Stage 1 Plan nominates a range of dwelling types, sizes and scales for each superlot ranging from residential flat buildings to individual dwelling houses. The size and dwelling type of Superlot 2 is consistent with those nominated by the Stage 1 Plan. Furthermore, the proposal only exceeds the FSR standard because of a definitional issue arising from the basement connection of some of the

dwelling and therefore does not in any way change the proposal's consistency with the desired character of the site or locality.

- The proposal has been architecturally designed and includes façade articulation to maximise solar and natural ventilation and provide visual interest. The proposal meets the BASIX requirements for energy, water and thermal comfort consistent with the Stage 1 Plan, which provides more onerous commitments than those nominated by SEPP BASIX 2004.
- The site is not identified as a heritage item or located within a conservation area however; the Prince Henry Hospital heritage conservation area is located immediately adjacent to the site. As discussed the additional GFA is largely confined to the basement car parking level and therefore will not contribute to increasing the bulk and scale of the building when viewed from the public domain.
- As stated above, the proposed variation arises from subterranean aspects of the development which will have no amenity impacts, such as visual bulk, loss of privacy, overshadowing and views to neighbouring dwellings.

Therefore, notwithstanding the minor non-compliance with the development standard, the proposed FSR is consistent with the objectives of the standard.

3. Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act?

The objectives of Clause 4.6 are:

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

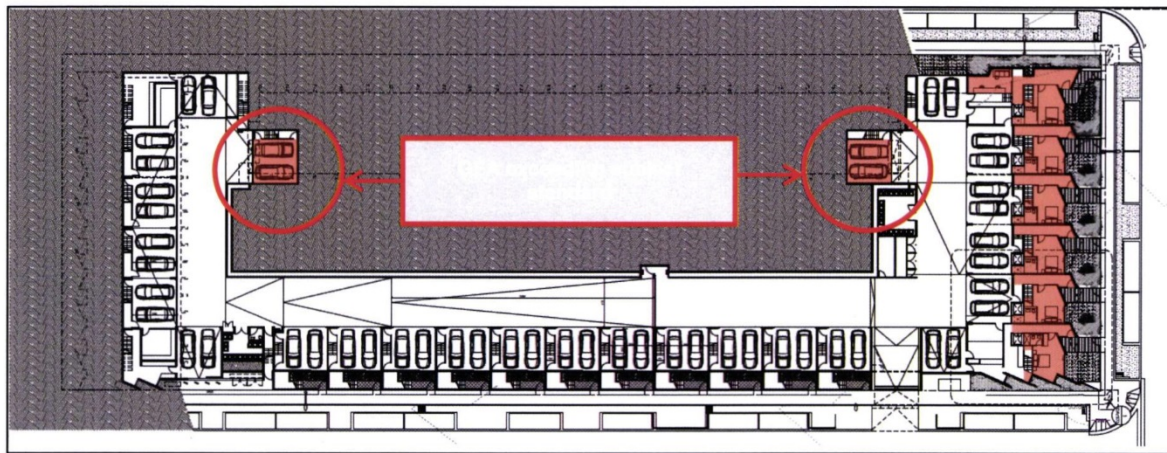
The proposed development complies with the total building height permitted on the site pursuant to the applicable 12m building height development standard. The degree of flexibility proposed in relation to the application of the FSR standard permits a small proportion of this quantum of development to be located within the basement to allow for an increase in the amount of car parking spaces, in addition to those allowed under the Randwick LEP 2012.

This flexibility creates a significantly better outcome than would be achieved by providing a compliant number of car parking spaces considering:

- The proposed terrace house style dwellings are more conducive to a double garage per dwelling than the 1.5 spaces per dwelling required by the Randwick DCP 2013.
- Providing the minimum required number of spaces would prevent four of the proposed dwellings from having privately accessed garages.

The additional 4 car parking spaces contributing to GFA are illustrated in the following **Figure 3**.

FIGURE 3 – BASEMENT PLAN EXTRACT



The objects set down in section 5(a)(i) and (ii) of the EP&A Act 1979 are:

“(a) to encourage

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural area, forest, mineral, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land...*”

The development is consistent with these objects, insofar as:

- The site is located within an established urban environment and was identified for residential urban infill of the scale proposed through a Stage 1 Master Plan planning process.
- A degree of flexibility in relation to the proposed planned quantum of development on the site is entirely consistent with the orderly and economic use of the land insofar as it locates a proportion of additional floor space within the basement to enable 2 car parking spaces for all dwellings, which is a more appropriate car parking provision for the dwelling type proposed, for the following reasons:
 - The Randwick DCP 2013 applies a rate of 1.5 spaces per 3 or more bedroom for residential flat buildings, but 2 spaces per dwelling house.
 - Whilst the eastern, southern and western blocks are technically defined as a ‘residential flat building’, because the dwellings are physically connected by a common basement parking structure, the form, size and typology of these dwellings is more reflective of individual dwelling houses, and is almost identical to that of the northern block, which is defined as dwelling houses, simply because of the lack of an interconnected basement. If the subject terrace houses all had individual driveways to at grade parking they would require 2 cars, solving the proposed variation. However, this would not be an improved planning outcome.

4. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Compliance with the development standard is considered unreasonable and unnecessary in the circumstance of the application because:

- The development, as proposed be modified, is consistent with the objectives of the development standard as provided in clause 4.4 (1) of the Randwick LEP 2012, as detailed above.

- The proposed variation does not result in a significantly different form of development to that planned by the Stage 1 Plan. Specifically, the proposed development:
 - Complies with the site specific building height standard; and
 - Provides a built form that is entirely consistent with that approved in the Stage 1 Plan.
- The potential environmental impacts of the variation have been documented and detailed in this Statement of Environmental Effects. It is our view that the variation proposed in this instance would not contravene the environment planning objectives of the FSR control. In particular, the proposed location of additional GFA within the basement will not contribute to any unreasonable overshadowing or other impacts upon adjacent residential land, and will enhance the amenity of the future occupants of the proposed development.
- While the Randwick DCP 2013 recommends car parking be provided at a rate of 1.5 spaces per 3 or 4 bedroom, this rate is not reflective of the type of development proposed. Therefore, strict enforcement of the DCP car parking rate would be unnecessary and unreasonable, and would not serve any positive planning purpose, or result in a better outcome.

5. Are there sufficient environmental planning grounds particular to the circumstances of the proposed development?

The proposed variation relates to a site specific development standard, and the environmental planning grounds in support of the variation are detailed as follows:

- The additional GFA is contained entirely within the basement level and cannot be viewed from the public domain;
- The proposed additional GFA does not give rise to any amenity impacts to neighbouring dwelling houses than those that may be reasonably expected by a complying development;
- The additional car parking spaces will have a negligible impact on the operation of the existing road network; and
- Better reflects the intended vehicles per dwelling and will ensure car parking for residents is provided within a safe and secure environment.

6. Is the objection well founded?

The proposed exception to FSR development standard will provide for a more considered response to car parking, improving the amenity afforded future occupants, while mitigating potential impacts upon surrounding properties.

7. Would non-compliance raise any matter of significance for State or Regional Planning?

The non-compliance will not raise any matter of State or Regional Significance.

8. Is there a public benefit of maintaining the standard?

Compliance would not reduce any material impact on the development, and is contained entirely within the basement level which will not increase the building bulk perceived from the public domain. Being a site specific control, the proposed variation does not undermine the consistency with which Council may apply the control elsewhere.

9. Does the standard arise in relation to BASIX?

The FSR standard is not contained in SEPP BASIX 2004.

10. Does the standard arise in relation to complying development?

The FSR standard does not relate to Complying Development.

Clause 4.6 summary

Overall, it is considered that compliance with the FSR standard of the LEP is considered unreasonable and unnecessary as:

- A numerically complying development would not result in an improved amenity outcome for adjacent land; and
- A numerically compliant development would compromise the residential amenity of future occupants.

The proposed development is entirely consistent with the approved Stage 1 building envelope controls. The proposed additional GFA is located entirely within the basement, will not result in any perceptible environmental effects and is not inconsistent with any underlying planning objective. Strict compliance with the standard is unnecessary and unreasonable in that it would not result in a better planning outcome.

Based on the reasons outlined above, it is concluded that the request is well founded and that there are sufficient environmental planning grounds particular to the circumstances of the proposed development to warrant flexibility in the application of the development standard.

Assessment comments:

The proposed development exceeds the maximum floor space ratio standard by 1.11%. The variation is of little consequence given that the floor area is located below ground level. Notwithstanding, the main considerations are whether the additional floor area, across the whole of the site, satisfies the key objectives of the FSR standard and the R1 zone. These objectives are assessed as follows:

The key objectives of the R1 zone are listed as follows:

- *To provide for the housing needs of the community.*

The proposed development does not provide any community or low cost housing. Notwithstanding, the proposed development for row and maisonette type housing is consistent with the envisaged housing for this super lot under the Stage 1 plan.

- *To provide for a variety of housing types and densities.*

The proposed development provides a combination of three and four bedroom terrace and maisonette housing.

- *To allow the comprehensive redevelopment of land for primarily residential and open space purposes.*

The proposed development of the site is for the residential purposes.

- *To protect the amenity of residents.*

The proposed development will suitably protect the amenity of residents with particular regard to solar access, views, visual amenity and privacy.

- *To encourage housing affordability.*

The proposed development for row terraces and maisonette housing is not traditionally a form of housing affordability. Notwithstanding, relative to single detached dwellings they would generally be cheaper form of housing as the necessity for upkeep and maintenance is minimised.

The key objectives of the Floor space ratio standard are listed as follows:

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

The proposal will have a size and scale that is commensurate with the stage 1 plan comprising basement level with three levels above. The proposal is also consistent with the desired character comprising a combination of row housing with individual parking and shared basement parking. The proposal building form contains varying levels of articulations, larger than minimum setbacks at the upper levels, which in combination with the expansive street lengths and open spaces to the east and south ensure a suitable spatial setting negating the areas where the development does not strictly meet the Stage 1 controls such as the minor protrusions of the wall height control and the protrusions of the basement above the floor level.

- (b) to ensure that buildings are well articulated and respond to environmental and energy needs,*

The proposed development is well articulated respecting the traditions of a row housing also incorporating more modern elements of design. The site planning is also well considered ensuring compliant levels of solar access to the living areas of each of the dwellings and adequate levels of solar access to private open spaces.

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

There are no contributory buildings in the vicinity of the site. The nearest heritage elements include the ponds opposite the site to the east and the Little Bay Geological site. These elements contribute aesthetic, historic and technical/research significance of the area. Council's Heritage Planner states as follows:

the design of the new buildings should be consistent with the provisions of the private domain controls in the Stage 1 Plan inclusive of building setbacks, heights and dwelling design and material. The proposed building will have no impact on the Aboriginal heritage significance of the potential ochre site and will not impact on the significance of the Geological Site.

In relation to the private domain controls, the proposed development displays a high level of compliance having particular regard to the setbacks, open space areas and overall height controls. There is some non-compliance associated with the development where at limited parts the proposed development exceeds the maximum wall height control and the basement protrudes more than 1.2m above the remediated ground level. However these are not fatal to the application. In particular, the proposal wall heights only exceed the maximum by a nominal 800mm and limited to only small sections of the elevation at the low parts of the site. In addition, these only occur amongst elements of the built form that are well setback from the site boundaries. In relation to the basement protrusions above the RGL, these are more significant protrusions above the 1.2m maximum control, however there are several methods that have been employed to

minimise the dominance of these protrusions including incorporating into their design including window openings to the frontage along Belbowrie Road, providing habitable rooms to dwellings (along Lapwing Street) and using a combination through the site and in particular along Cawood Avenue, triangular solid structures, lightweight materials and landscaping which all serve to create visual interest and soften their appearance of the development from street level,. In terms of materials the proposal contains a selection of colours and materials that are consistent with the colour and materials schemes identified in the Stage 1 DCP for the site.

Overall is considered that the proposed development inclusive of the non-compliant elements do not result in any significant form or massing that would be detrimental to the significance of the heritage items in close proximity to the site.

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

It is noted that there have been no submissions received by Council during the notification period or subsequent to the recommendation made in this report. Nonetheless it is not considered that the proposed development results in any significant or unreasonable adverse impacts on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

Having regard to the above matters it is considered that the request to vary the floor space ratio development standard is well founded and strict compliance with the standard is considered unreasonable and unnecessary for following reasons:

- The breach in FSR only occurs in the basement level and is not discernible from street level and nor will it compromise the overall FSR standards applied across the whole of the Stage 1 development site.
- The breach in the FSR is merely a reflection of the development seeking to provide two car spaces for each of the three and four bedroom dwellings,
- In relation to built form the proposal complies with the maximum 12m overall height limit under the stage 1 plan and the areas where it exceeds the maximum 11m wall height control are limited to only small sections of the development, they are architectural elements, they are set well back from street level and they don't not have a bulk or scale that translates into excessive massing that dominates but rather creates visual interest within the streetscape and suitable spatial setting within the context of the surrounding urban blocks and open spaces.
- The proposal provides 49% of the site as open spaces, which is greater than 40% minimum control under the Stage 1 Master plan. In addition, these open elements have been provided at the periphery of the site, which softens the degree to which the basement level protrudes above the Remediated Ground Level (RGL).
- The proposed development contains suitable forms of articulation within a modern contemporary design and will contribute to the desired future character of the area.
- The proposed development contains well-articulated elements supported by a mix of materials, good distribution of floor area and massing along all elevations. The short depth of terraces achieves a good level of cross ventilation and light assisting with reducing reliance on artificial means of light and ventilation.

Overall, with respect to the objectives of the floor space ratio standard and the R1 General residential zone and the Stage 1 deemed DCP, it is considered that the applicant has appropriately justified that the strict compliance with the floor space ratio development standard is unreasonable and unnecessary in the circumstances of the case.

Therefore it is considered that the Clause 4.6 Exception to the development standard can be supported as a good planning outcome.

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

As discussed above, the proposal achieves satisfactory compliance with the planning objectives for the locality. It sits comfortably within the site and the medium density residential character envisage for lot 2 and surrounding streets.

In summary, the applicant's written request highlights the high level of compliance with the envelope and site planning controls, the application provides compliant levels of parking on site which is the reason for the non-compliance with the FSR standard and it is considered that this will result in a better planning outcome and there are sufficient environmental planning grounds to justify contravening the development standard.

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

Based on the above assessment, it is considered that the proposed development is consistent with the aims of the RLEP 2012, the objectives of the standard and the objectives of the zone in that the floor space provided achieves good amenity within the terraces both in terms of natural light and ventilation, suitable areas of private open space and will present well within the streetscape character and that envisaged by the RLEP 2012 and the stage 1 plan. The proposed development does not result in any unacceptable and unreasonable impact on the amenity of residents

Overall, given the above assessment, the proposed development is in the public interest because it is an orderly use of the site.

Council delegation exercising concurrence function for development that contravenes a development standard is subject to:

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

Comments:

Pursuant to the assumed concurrence of the Director-General under clause 4.6(4), it is considered that the:

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

adherence to the numerical standard is not considered necessary in this case, as the proposed development is generally consistent with the housing forms envisaged by the stage 1 plan and the density under the RLEP 2012 for this locality, it does not unreasonably compromise the amenity of surrounding residential areas and is compatible with the desired streetscape character.

The variation from the adherence to the floor space ratio standard will not be detrimental to the orderly use of the site and there is no public benefit in maintaining the development standard in this instance.

Overall, the amended layout is considered to be suitable for the site, and the applicant's written justification for contravening the floor space ratio standard is considered to be well founded and therefore supportable.

(ii) Any Draft Environmental Planning Instrument

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

(iii) Any Development Control Plan

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

The proposal is generally consistent with the provisions of the Stage 1 Plan approved by the Land & Environment Court on 23 December 2009. The table below summarises key areas of non-compliance and other specific issues, addressed as follows:

Control	Stage 1 Requirement	Proposed & Compliance	Comments
Height (Above Remediated Ground Level (RGL)).	Maximum 1.2 metre protrusion of basement above Remediated Ground Level (RGL).	Between 2.06m and 3m protrusions above RGL; isolated to the lower parts of the sites. Does not comply.	The maximum basement protrusions occurring at the lower parts of the site are identified as follows: <ul style="list-style-type: none">• north eastern 2.06m;• south eastern 3m (associated with the car park entry).
	Maximum 11 metre wall height above RGL, to fifth storey.	Maximum 11.8 metre wall height; Does not comply	
	Assessment comments: Basement protrusion above RGL The most obvious elements of the basement walls relate to the car park entry at the southern elevation and the northern elevation opposite. These heights come about in compensating for variations in site RGL of which the subject site has steepness, which is unique to this site when comparison to the gentle slope of other sites in the western end of the stage 1 development site. Despite the significant protrusions, it is considered that they have been disguised well along the majority of the elevations. The treatment to these levels is varied and does not for most intent		

Control	Stage 1 Requirement	Proposed & Compliance	Comments
	<p>present as basement levels from street level but rather as articulated entry points, to habitable areas and well defined entry points to some terraces. In addition, the DRP has made comment that the use of openings and articulations has worked well to minimise the expanse of these walls within the streetscape.</p> <p>External wall height</p> <p>Similar to reasons outlined for the protruding basement level the parts of the development which exceeds the maximum wall height are limited to localised low points of the site and not endemic across the whole of the development. Stepping in and mix of material of varying degrees of solidity relieve the form and mass of the development.</p>		
	12m Maximum roof height	Complies	Complies
Setback	<p>Minimum setback from the allotment boundary to any part of the building:</p> <p><u>Northern (Cawood Avenue) setback:</u></p> <ul style="list-style-type: none"> • <u>3m general setback</u> • <u>0m for a distance of 22.8m at NW corner</u> • <u>0m for a distance of 31.8m at NE corner</u> <p><u>Southern (Belbowrie Road) setback:</u></p> <ul style="list-style-type: none"> • <u>2.2m general setback</u> • <u>0m for a distance of 22.8m at SW corner</u> • <u>0m for a distance of 31.8m at SE corner</u> <p><u>Eastern (Lapwing Street) setback:</u></p> <ul style="list-style-type: none"> • <u>1.2m setback</u> <p><u>Western (Galaup Street) setback:</u></p> <ul style="list-style-type: none"> • <u>1.2m setback</u> 	<p>The proposed development provides largely compliant setbacks and in some instances greater setbacks than the controls require. However, there are minor encroachments close to RGL's that are associated with the entries associated with the basement protrusions above the RGL.</p>	<p>See assessment comments below</p>

Control	Stage 1 Requirement	Proposed & Compliance	Comments
<p>Assessment Comments:</p> <p>There are localised encroachments proposed in setbacks along parts of the four (4) boundaries. The encroachments are considered acceptable for the following reasons:</p> <ul style="list-style-type: none"> • The entry points are suitably articulated along these protrusions creating visual interest and differentiation in the built form across the four elevations of the site; • The vast majority of each elevation are setback in accordance with the Stage 1 Plan; • The articulation provided to each elevation has a good combination of solid and open elements creating visual interest contributing to the streetscape character. • The encroachments do not result in adverse amenity impacts to adjoining properties, in terms of loss of privacy, sunlight or views. 			
Rear setback control	Northern & Southern blocks: 10m separation between northern and southern blocks	Complies	Complies
	Eastern block: 8m setback	Northern end is 7.7m Southern end is 7.2m Does not comply	The non-compliances are minor and does not result in any appreciable adverse impacts on the amenity of the neighbouring dwellings to the west adjacent which are adequately protected by the their own eastern elevations which does not contain openings.
	Western block: 6m setback	Complies	
Landscape control	80% of shaded areas as indicated in Figure 75 to be deep soil (permeable paving permissible): 3m Ocean Street setback 2.2m Riparian Street setback 1.2m View Street setback 1.2m Green Street setback	Complies	The driveways of the northern block are finished with permeable paving. The majority of the development contains landscaped areas across all street frontages.
	Eastern block: Landscaped area: Min 40% of allotment area	33% is provided as deep soil area. Does not comply see comment at right	The shortfall is minor across the site and largely negligible having regard to

Control	Stage 1 Requirement	Proposed & Compliance	Comments
	Deep soil area: Min 35% of allotment area		minimising stormwater runoff. In terms of amenity, the proposed development as noted contains larger areas of open space than that required by the Stage 1 plan and that these are located larger at the perimeter of the site that serves to soften the development from street level.
Solar Access	70% of dwellings receive min 3 hours sunlight to at least 2m ² of glazing between 7:30am and 4:30pm on 21 June.	100% of buildings within the development achieve minimum sunlight access requirement. Complies.	The applicant has submitted solar access diagrams demonstrating that solar access will be retained to all north facing living areas.
	Principal area of private open space receive min 3 hours sunlight between 9am and 3pm on 21 June	48% of principal areas of private open space at ground level achieve the minimum solar access requirements. The application also includes roof terraces to the majority of these terraces and all will receive direct solar access. Complies.	
	Proposed built form will allow neighbouring developments to meet their solar access requirements	The required three (3) hours solar access to neighbouring development is retained under the proposed development. Complies.	
Visual privacy	Separation between multi-unit residential apartments must be: <ul style="list-style-type: none"> 12m between habitable rooms/ balconies 	Complies.	The proposed development is considered to adequately minimise direct overlooking of neighbours' habitable room windows above ground level and minimises direct overlooking of

Control	Stage 1 Requirement	Proposed & Compliance	Comments
	<ul style="list-style-type: none"> 9m between habitable/balconies and non-habitable rooms. 6m between non-habitable rooms. 		principal living rooms and private open space of other dwellings
Amenity	Min floor to ceiling height: <ul style="list-style-type: none"> Habitable rooms 2.7m Non-habitable rooms 2.4m Any air conditioning bulkheads must comply with these minimum ceiling heights 	Complies.	
	A tap and BBQ gas outlet to be provided on open spaces that are accessible from major living space	Conditioned	
Environmental design	BASIX	Complies	
	Every dwelling must incorporate passive solar design principles and allow for cross ventilation	Complies	
	Window and door placement and operation should allow night time ventilation without compromising security	Complies	
	Air conditioning	Conditioned	
	Solar panels	Complies	
Safety and Security	High walls around residential buildings and parking structures which obstruct views into the development	Complies	Open style elements are maintained within the front fencing and suitably dimensioned window openings are provided

Control	Stage 1 Requirement	Proposed & Compliance	Comments
	are prohibited; Dwelling houses must be designed to allow residents to see people approaching their dwelling without the need to open the front door		
Waste Management	Waste management plan	A Waste Management Plan was submitted with the Application.	Subject to a condition of consent.
Storage and site facilities	3+bedroom dwellings: 10m3	Complies	
Public street interfaces	Minimise impact of vehicular access and parking in front garden areas Side boundary fence forward of building line to be restricted to a height of 1.5m 1.2m front fence is preferred along primary street frontages	Permeable paving to driveway entries; Fencing is open palisades Side fencing is generally restricted to 1500mm Complies	
Public open space interfaces	Southern block: Front garden adjacent the central park landscape corridor must comply with the retaining wall types as specified in Section 4.6.6, at any point where the park level is set below the level of the private allotment	Solid white render used for the stairs. Does not comply	The proposed solid walls for the stairs will not detract from the open parkland identified as the Urban lounge.
Private open spaces	Tree planting in central and rear gardens should generally be between 4m to 12m height at maturity Central and rear gardens should be fenced along the rear boundary and alongside	Complies	

Control	Stage 1 Requirement	Proposed & Compliance	Comments
	boundaries behind the primary building line to a max height of 1.8m		
Car parking	Where possible, maximise natural ventilation to the upper level of basement and semi-basement car parking	Suitably ventilated	
Material palette		Palette is suitable	

8.7 Part B7 Transport, Traffic, Parking and Access

In regards to the parking rate provided for service vehicles, the proposal generally complies with the Parking requirements except for the following matters:

The proposed on grade parking spaces have only enough room for one space therefore as noted by the engineer a condition is included requiring the total depth to be increased to provide for two spaces in a tandem arrangement.

Provisions are able to be made for the required bicycle spaces within the storage areas of each the terraces over the basement and within the eight Torrens Title attached dwellings. No motorcycle spaces are shown on the plans and a condition is included requiring and motorcycle spaces within the dwellings and basement respectively

8.8 Part C3 Adaptable and Universal Housing

Part C3 Adaptable Housing

DCP Clause	Control	Proposal	Compliance
C3	Adaptable Housing		
	In addition to the requirements of clause 2(i) controls, a minimum 20% of dwellings in new multi dwelling housing, shop top housing and residential flat buildings containing 10 or more dwellings must be adaptable dwellings and designed and constructed to a minimum Class C Certification under AS 4299 Adaptable Housing.		
	ii) Where the development does not provide for lifts, the adaptable dwellings are to be located on the ground floor of the development.	No lift provided and no adaptable dwellings provided.	No see assessment below.
	iii) The design of adaptable dwellings must be integrated into the development with the use of consistent materials and finishes.		
Planning Comment: The applicant argues the following in relation to the non-provision of adaptable dwellings:			

DCP Clause	Control	Proposal	Compliance
<p><i>"The proposed development is part of the larger Little Bay Cove project. The Stage 1 approval for the larger project specifies different typologies for various superlot. While there are numerous super lot's identified for single floor plate apartment buildings suitable for wheelchair access, Superlot 2 is specified as a townhouse lot. As wheelchair accessible apartments will be provided throughout the various apartment building Superlot, such as Superlot 11, no wheelchair accessible apartments are proposed in Superlot 2."</i></p> <p>This argument is not considered sustainable for the following reasons:</p> <ul style="list-style-type: none"> • Each superlot is assessed against the provisions under Part C3 of the RDCP; • There is no indication provided by the applicant that the development approved for Superlot 11 contains a proportion of adaptable dwellings that would offset the shortfall of adaptable dwellings within this development • Whilst the owner of the subject site appears to have control over other sites within the Stage 1 Plan the requirements for additional adaptable dwellings cannot be reasonable be transferred to another development within the Stage 1 development site without amending the Stage 1 approved plan for the site. • Townhouse developments do not contain a lesser demand for the provision of adaptable dwellings. • It is considered that wheelchair and lift access (hydraulic) may be able to be provided to within the development without unnecessarily compromising the form of the development. <p>Therefore, it is recommended that a condition be included requiring 20% of the total number of dwellings within the development to be configured as adaptable dwellings and that details are to be submitted to Council for approval prior to a Construction certificate being issued for the development. Any amended details may be required to be submitted to the DRP and relevant Council departments for comments.</p>			

8.9 Section 94A Development Contributions Plan

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

Category	Cost	Applicable Levy	S94A Levy
Development Cost more than \$200,000.	\$ 24,861,080	1%	\$248,610.80

(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 – *Building Code of Australia;*

Clause 92 – *What additional matters must a consent authority take into consideration in determining a Development Application?*

Clause 93 - *Fire Safety and other considerations.*

The matters raised in these clauses have been adequately addressed in relevant sections of this report. 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;

The likely impacts of the development have been considered throughout this report and found to be satisfactory

8.10 Other Environmental considerations

Natural Environment

The proposed development of lot 2 within the Stage development site is not considered to have any detrimental impact on the protected bushland area due to separation distance. The proposal will be acceptable in terms of natural environmental impacts, of which are considered minimal to non-existent under the proposed development.

Urban Design

The design of the proposed development is considered to be of a high standard and will complement the architectural style of the buildings approved and under construction in the adjoining Prince Henry Site, in addition to other lots within the Stage 1 development site.

The proposed built form is commensurate with the architectural design intent of the Stage 1 Plan. A high degree of articulation is provided to primary facades, of which have been broken up along the larger frontages, allowing relief from the impacts of massing upon the streetscape. The scheme makes use of modulated and framed structures, and recessed angular walls of which contribute to visual interest and character. Landscaping and vegetation is further utilised for screening, defining public and private spaces and offsetting perceived bulk and scale. Some external colour and materials details have been provided however are recommended to be required in more detail by way of conditions, prior to construction certificate.

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. 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 proposed development presents a positive contribution toward the streetscape and locality. The proposal is not considered to have a detrimental impact upon the amenity of nearby residents or the environment.

(c) The 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. The Stage 1 Plan also provided design principles for public domain elements within the subject site.

(d) Any submissions made in accordance with this Act or the Regulations;

The proposal was advertised in accordance with the RDCP. During this period no submissions were received.

(e) The public interest;

The proposed development is generally consistent with the approved Stage 1 Plan. It will provide the local community with high quality housing in close proximity to natural coastal areas, as well as a range of urban facilities and services within 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, through the facilitation of future residential development in accordance with the Randwick LEP 1998 the approved Stage 1 Plan.

9. Financial Impact Statement

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

10. 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 development standard specifying maximum FSR in the R1 General Residential zone under the Randwick LEP 2012. The submitted exception to the standard has been assessed and is considered to be well founded in the circumstances.

The proposal is inconsistent with the provisions of the Stage 1 Plan primarily in regards to external wall heights, basement protrusions, setbacks, and deep soil areas all of which have been assessed 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.

11. RECOMMENDATION

- A. That the Joint Regional Planning Panel support the exception to the development standard in respect to non-compliance with Clause 4.4 of the Randwick Local Environmental Plan 2012, relating to maximum floor space ratio on the grounds that the proposed development is consistent with the relevant objectives of the clause 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/39/2016 to construct part 2/part 3 storey multi-dwelling housing development with roof terraces, containing 33 dwellings, basement parking for 50 vehicles, at grade parking for 8 vehicles, landscaping and associated works at 5-15 Cawood Avenue, Little Bay subject to the following conditions:

GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

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

Approved Plans & Supporting Documentation

1. The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

Plan	Drawn by	Dated	Received by Council
DA:001 Issue A	smart design studio	27.11.15	28 January 2016
DA:100 Issue A		27.11.15	28 January 2016
DA:101 Issue A		27.11.15	28 January 2016
DA:102 Issue A		27.11.15	28 January 2016
DA:103 Issue A		27.11.15	28 January 2016
DA:300 Issue A		27.11.15	28 January 2016
DA:301 Issue A		27.11.15	28 January 2016
DA:400 Issue A		27.11.15	28 January 2016
DA:401 Issue A		27.11.15	28 January 2016
DA:410 Issue A		27.11.15	28 January 2016
DA:680 Issue A		27.11.15	28 January 2016
DA:001 Issue A		27.11.15	28 January 2016
DA:001 Issue A		27.11.15	28 January 2016
DA:001 Issue A		27.11.15	28 January 2016
DA:001 Issue A		27.11.15	28 January 2016

BASIX Certificate No.	Dated	Received by Council
382108M	8 January 2016	28 January 2016

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements and details are to be included in the *Construction Certificate*:
 - a. A minimum 20% of dwellings in the development must be adaptable dwellings and designed and constructed to a minimum Class C Certification under AS 4299 Adaptable Housing. This condition may require access ramps to be installed to the adaptable dwellings, a hydraulic lift and an increase in the clearance of the adaptable car spaces. Details shall be submitted to Council's Manager of Development Assessment for approval prior to a Construction Certificate being issued for the development.
 - b. Ceiling fans are required to be installed in all habitable rooms of the development.
 - c. In order to ensure retention of planting in the rear of yards, any mature trees forming part of the approved landscaping shall be retained on site unless written consent is received from Council allowing for their pruning relocation or removal.
 - d. Air conditioning units must only be located at ground level or within basement level and not viewable from the public domain.
 - e. A tap and BBQ gas outlet shall be provided to the rear ground level private open space for each dwelling.
 - f. Provisions shall be made for 2 motorcycle spaces within the basement.
 - g. Provisions shall be made for a minimum of 17 bicycle spaces.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

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

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

Consent Requirements

3. The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.

External Colours, Materials & Finishes

4. The colours, materials and surface finishes to the development must be consistent with the relevant plans, architectural report documentation and colour schedules provided in with the development application and the Stage 1 Plan approved for the site.

Section 94A Development Contributions

5. In accordance with Council's Section 94A Development Contributions Plan effective from 2 July 2007, based on the development cost of \$24,861,080 the following applicable monetary levy must be paid to Council: \$248,610.80

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.

Long Service Levy Payments

6. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 109F of the *Environmental Planning & Assessment Act 1979*.

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

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

Security Deposit

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

- \$5000.00 - Damage / Civil Works Security Deposit

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

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

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

Electricity Substation

8. The applicant must liaise with Ausgrid prior to obtaining a construction certificate (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.

Parking and Vehicular Crossing Design

9. Prior to lodging a Construction Certificate with the Certifying Authority the applicant must submit to Council for approval, and have approved, amended garage and tandem carspace details for proposed dwellings 2-9 inclusive. The amended details must be prepared in consultation with Council's Development Engineer Coordinator and must demonstrate that two vehicles can park in tandem whilst being wholly contained within the development site. As a minimum the clear distance from the southern wall of the garages to the Cawood Avenue site frontage must be 10.7 metres. The Construction Certificate plans must demonstrate compliance with the approved amended details.
10. Prior to lodging a Construction Certificate with the Certifying Authority the applicant must submit to Council for approval, and have approved, full design details for the vehicular crossing in Belbowrie Road. As a minimum the design details must include sections along the extremities of the driveway (extending onto the road carriageway) and details of the grass swale (in particular how the stormwater flowpath will be maintained). The design details must be prepared in consultation with Council's Development Engineer Coordinator.

Sydney Water

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

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

The Sydney Water [Tap in™](#) online service replaces the Quick Check Agents as of 30 November 2015

The [Tap in™](#) service provides 24/7 access to a range of services, including:

- Building plan approvals
- Connection and disconnection approvals
- Diagrams
- Trade waste approvals

- Pressure information
- Water meter installations
- Pressure boosting and pump approvals
- Change to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's **Tap in™** in online service is available at:
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

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

Landscape Plans

12. The Certifying Authority/PCA must ensure that the Landscape Plans submitted as part of the approved Construction Certificate are substantially consistent with the Landscape Plans by McGregor Coxall, sheet no 01-06, issue C, dated 27.08.15.

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

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

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

Compliance with the Building Code of Australia

13. In accordance with section 80A (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).

BASIX Requirements

14. In accordance with section 80A (11) of the *Environmental Planning & Assessment Act 1979* and clause 97A of the *Environmental Planning & Assessment Regulation 2000*, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.

The required commitments listed and identified in the BASIX Certificate must be included on the construction certificate plans, specifications and associated documentation, 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.

Site stability and construction

15. A report must be obtained from a suitably qualified and experienced *professional engineer*, which confirms the suitability and stability of the site for the proposed building and which confirms the suitability and adequacy of the proposed design and construction of the building for the site, to the satisfaction of the *Certifying Authority*.

Traffic conditions

16. 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.
17. The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of AS2890.1:2004. The Construction Certificate plans must demonstrate compliance with these requirements.

Design Alignment levels

18. The design alignment level (the finished level of concrete, paving or the like) at the Cawood Avenue property boundary for driveways, access ramps and pathways or the like shall be;

- **Match the back of the existing footpath along the full site frontage.**

The design alignment level/s at the property boundary as issued by Council and their relationship to the 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 on 9399 0924.

19. The design alignment level (the finished level of concrete, paving or the like) at the Lapwing Street property boundary for driveways, access ramps and pathways or the like shall be;

- **Match the back of the existing footpath along the full site frontage.**

The design alignment level/s at the property boundary as issued by Council and their relationship to the 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 on 9399 0924.

20. The design alignment level (the finished level of concrete, paving or the like) at the Galaup Street property boundary for driveways, access ramps and pathways or the like shall be;

- **Match the back of the existing footpath along the full site frontage.**

The design alignment level/s at the property boundary as issued by Council and their relationship to the 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 on 9399 0924.

21. The design alignment level (the finished level of concrete, paving or the like) at the Belbowrie Road property boundary for driveways, access ramps and pathways or the like shall be;

- **Away from the proposed vehicular crossing match the back of the existing footpath along the full site frontage.**
- **At or near the vehicular crossing the alignment levels must be obtained in writing from Council's Development Engineer.**

The design alignment level/s at the property boundary as issued by Council and their relationship to the 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 on 9399 0924.

22. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of \$6760.00 calculated at \$52.00 (inclusive of GST) per metre of site frontage to Cawood Avenue. This amount is to be paid prior to a construction certificate being issued for the development.

23. The gradient of the internal access driveway must be designed and constructed in accordance with AS 2890.1 (2004) – Off Street Car Parking and the levels of the driveway must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate.

The height of the building must not be increased to satisfy the required driveway gradients.

Stormwater Drainage & Flood Management

24. The proposed internal driveway shall be designed with a high point at least 300 mm above determined 1 in 100 year flood level (1% AEP level). Details demonstrating compliance with this condition are to be included in the construction certificate documentation.

25. Windows, vents and other openings into the basement carpark (excluding the driveway opening) are to be located at least 500 mm above the determined 1 in 100 year flood level (1% AEP level). Details demonstrating compliance with this condition are to be included in the construction certificate documentation.

The floor level of all habitable and storage areas (excluding those in the basement carpark) shall be at least 500 mm above the determined 1 in 100 year flood level (1% AEP level) or be suitably waterproofed up to this same level. Details demonstrating compliance with this condition are to be included in the construction certificate documentation.

26. **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.
27. 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 underground drainage system located in the streets fronting the subject site.
 - c) Should a pump system be required to drain any portion of the site the system must be designed with a minimum of two pumps being installed, connected in parallel (with each pump capable of discharging at the permissible discharge rate) and connected to a control board so that each pump will operate alternatively. The pump wet well shall be sized for the 1 in 100 year, 2 hour storm assuming both pumps are not working. The pump system must also be designed and installed strictly in accordance with Randwick City Council's Private Stormwater Code.
 - d) 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.

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

Sediment/silt arrestor pits are to be constructed generally in accordance with the following requirements:

- The base of the pit being located a minimum 300mm under the invert level of the outlet pipe.
- The pit being constructed from cast in-situ concrete, precast concrete or double brick.
- A minimum of 4 x 90 mm diameter weep holes (or equivalent) located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes.
- A galvanised heavy-duty screen being provided over the outlet pipe/s (Mascot GMS multipurpose filter screen or equivalent).
- The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system.
- A child proof and corrosion resistant fastening system being provided for the access grate (e.g. spring loaded j-bolts or similar).
- Provision of a sign adjacent to the pit stating, "This sediment/silt arrestor pit shall be regularly inspected and cleaned".

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

- g) 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.
- h) Should a charged system be required to drain any portion of the site, the charged system must be designed with suitable clear-outs/inspection points at pipe bends and junctions.
- i) Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line and must not encroach across a neighbouring property's frontage unless approved in writing by Council's Development Engineering Coordinator.

Site seepage & Dewatering

28. **As the above site is likely to encounter seepage groundwater within the depth of the basement excavation** the design of the carpark (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 carpark (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**.

Waste Management

- 29. Waste Management provisions must be implemented in accordance with the Waste Management Plan submitted with the development application (Prepared by Kristian Horana of Waste Tech Services Pty Ltd dated 7 August 2015).
- 30. The garbage rooms for dwellings 1, 10 and 11-33 inclusive must be sized in accordance with the Waste Management Plan submitted with the development application (Prepared by Kristian Horana of Waste Tech Services Pty Ltd dated 7 August 2015). 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.
- 31. The garbage areas for dwellings 2-9 inclusive shall be provided in accordance with the Waste Management Plan submitted with the development application (Prepared by Kristian Horana of Waste Tech Services Pty Ltd dated 7 August 2015).

Street Tree Protection

- 32. In order to ensure retention of the 20 juvenile *Eucalypts* within the grass verges around the perimeter of the site, comprising three along Galaup Street, eight on Cawood Street, two on Lapwing Street and seven on Belbowrie Road in good health, the following measures are to be undertaken:
 - a. All documentation submitted for the Construction Certificate application must show their retention, with their position to be clearly and accurately shown on all plans in relation to the proposed works.
 - b. Any excavations associated with the installation of new services, pipes, stormwater systems or similar over public property can only be located along the sides of the vehicle crossings, not over the grass verges, so as to avoid root damage and future maintenance issues.
 - c. Each tree must be physically protected by installing four star pickets at a setback of 1 metre on all four sides (measured off the outside edge of its/their trunk/s at ground level), or matching up with the back of the kerb/footpath, to which, safety tape/para-webbing/shade cloth or similar shall be permanently attached so as to completely enclose each tree for the duration of works.

- d. This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER".
- e. Within the TPZ, there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans needing to acknowledge these requirements.
- f. Where the applicant seeks removal of any of these street trees so as to accommodate any works, the PCA must obtain the written approval for this from Council's Landscape Development Officer (9399-0613).
- g. The applicant must cover the full cost for any removal and replacement of street trees as specified by Council, and prior to the issue of any Occupation Certificate, the PCA must obtain written confirmation from Council's Landscape Development Officer that the required amount of street trees have been retained around the perimeter of the site.
- h. The PCA must ensure compliance with all of these requirements, both on the plans as well as on-site during the course of construction, and prior to issuing any type of Occupation Certificate.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

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

Certification and Building Inspection Requirements

33. Prior to the commencement of any building works, the following requirements must be complied with:

- a) a Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.

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

- b) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
- c) a *principal contractor* must be appointed for the building work, or in relation to residential building work, an *owner-builder* permit may be obtained in accordance with the requirements of the *Home Building Act 1989*, and the PCA and Council are to be notified accordingly; and

- d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
- e) at least two days notice must be given to the Council, in writing, prior to commencing any works.

Home Building Act 1989

- 34. 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 the relevant Certificate of Home Warranty Insurance or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifying Authority and Council, in writing.

Dilapidation Reports

- 35. 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 (e.g. dwellings, residential flat buildings, commercial/industrial building, garages, carports, verandah's, fences, retaining walls, swimming pools and driveways etc).

The report (including photographs) are required to detail the current condition and status of any dwelling, associated garage and other structures located upon the adjoining premises, which may be affected by the subject works. A copy of the dilapidation report must be given to the owners of the premises encompassed in the report/s before commencing any works.

Construction Noise & Vibration Management Plan

- 36. 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.

- 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.

Temporary Site Fencing

37. Temporary site safety fencing must be provided to the perimeter of the site throughout demolition, excavation and construction works.

Temporary site fences must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), or heavy-duty plywood sheeting (painted white), or other material approved by Council.

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

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

All site fencing and hoardings must 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.

If it is proposed to locate any site fencing, hoardings, amenities or articles upon any part of the footpath, nature strip or public place at any time, a separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.

Construction Site Management

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

- location and construction of protective site fencing / hoardings;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;
- provisions for public safety;
- dust control measures;
- details of proposed sediment and erosion control measures;
- site access location and construction
- details of methods of disposal of demolition materials;
- protective measures for tree preservation;

- location and size of waste containers/bulk bins;
- provisions for temporary stormwater drainage;
- construction noise and vibration management;
- construction traffic management details;
- provisions for temporary sanitary facilities.

The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works, to the satisfaction of Council.

A copy of the Construction Site Management Plan must be provided to the Principal Certifying Authority and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.

Demolition Work Plan

39. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures and relevant environmental/occupational health and safety requirements.

The Demolition 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 (including asbestos)
- Other relevant details, measures and requirements to be implemented
- Details of re-use, recycling and disposal of waste materials
- 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 also be provided to Council not less than 2 days before commencing those works.

Notes

- *It is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.*
- *Refer to the conditions within the "Requirements During Construction & Site Work", for further details and requirements relating to demolition work, removal of any asbestos and public safety.*

Public Liability

40. 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 the Principal Certifying Authority and Council.

Construction Traffic Management

41. 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 Cawood Avenue and / or Belbowrie Road 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.

42. A detailed Construction Site Traffic Management Plan must be submitted to and approved by Council, prior to the commencement of any site work.

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 & Maritime Services, Police and State Transit Authority)
- Any activities proposed to be located or impact upon Council's road, footways or any public place
- Measures to maintain public safety and convenience

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

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

Civil Works

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

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

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

Public Utilities

45. 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.
46. Documentary evidence from the relevant public utility authorities confirming they have agreed to the proposed works and 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.

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

Landscape Plans

47. Prior to the commencement of any site works, the Certifying Authority/PCA must ensure that the Landscape Plans by McGregor Coxall, sheet no 01-06, issue C, dated 27.08.15 have been amended to include the following requirements:
- a) The planting plan must show the exact species, location, quantity and pot size of all planting throughout the site;
 - b) To assist with future screening, privacy and separation between dwellings, a dense planting of evergreen trees and shrubs must be provided within the central landscaped zone, running in an east-west direction through the site;
 - c) The planting plan must show that at least two of these trees, which will attain a minimum height at maturity of 6 metres, will be provided across the rear boundary of each individual dwelling, and must be strategically located so as to maximize future screening.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

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

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

Inspections during Construction

48. 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.

The *Principal Certifying Authority* must specify the relevant stages of construction to be inspected and a satisfactory inspection must be carried out, to the satisfaction of the *Principal Certifying Authority*, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

Building & Demolition Work Requirements

49. All work and activities must be carried out in accordance with the relevant regulatory requirements, including:

- Occupational Health & Safety Act 2000 & Regulations
- WorkCover NSW Code of Practice for the Safe Removal of Asbestos
- WorkCover NSW Requirements, Guidelines and Codes of Practice
- Australian Standard 2601 (2001) – Demolition of Structures
- The Protection of the Environment Operations Act 1997
- The Protection of the Environment Operations (Waste) Regulation 2005
- DECC/EPA Waste Classification Guidelines
- Randwick City Council Asbestos Policy

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.

Sediment & Erosion Control

50. Sediment and erosion control measures, must be implemented throughout the site works in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom, to Council's satisfaction.

Details must be shown in a *Sediment and Erosion Control Plan*, including; a site plan; indicating the slope of land, access points & access control measures, location and type of sediment & erosion controls, location of existing vegetation to be retained, location of material stockpiles and storage areas, location of building operations and equipment, methods of sediment control, details of drainage systems and details of existing and proposed vegetation.

A copy of the Sediment and Erosion Control Plan must be provided to the Principal Certifying Authority and a copy must be maintained on site and be made available to Council officers upon request.

Dust Control

51. During demolition excavation and construction works, dust emissions must be minimised, so as not to result in a nuisance to nearby residents or result in a potential pollution incident.

Adequate dust control measures must be provided to the site prior to the works commencing and the measures and practices must be maintained throughout the demolition, excavation and construction process, to the satisfaction of Council.

Dust control measures and practices may include: -

- *Provision of geotextile fabric to all perimeter site fencing (attached on the prevailing wind side of the site fencing).*
- *Covering of stockpiles of sand, soil and excavated material with adequately secured tarpaulins or plastic sheeting.*
- *Installation of a water sprinkling system or provision hoses or the like.*
- *Regular watering-down of all loose materials and stockpiles of sand, soil and excavated material.*
- *Minimisation/relocation of stockpiles of materials, to minimise potential for disturbance by prevailing winds.*
- *Landscaping and revegetation of disturbed areas.*

Public Safety & Site Management

52. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with:

- Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- 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.
- Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health, Building and Regulatory Services department.

Excavations, Back-filling & Retaining Walls

53. 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 must 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.

Details of proposed retaining walls, shoring or piling are to be submitted to and approved by the *Principal Certifying Authority* prior to commencing such excavations or works.

Support of Adjoining Land

54. 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.

Site Signage

55. 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".

Restriction on Working Hours

56. 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 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Excavating of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> • Monday to Friday - 8.00am to 1.00pm only • Saturday - No work permitted • Sunday & public holidays - No work permitted
Additional requirements for all development	<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.

Survey Requirements

57. A Registered Surveyor's check survey certificate or other suitable documentation must 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 (PCA):
- prior to construction (pouring of concrete) of footings and retaining structures,
 - prior to construction (pouring of concrete) of each floor slab,
 - upon completion of the building, prior to issuing an *Occupation Certificate*,
 - as otherwise may be required by the PCA.

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 for the development.

Building Encroachments

58. There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.

Site Seepage & Stormwater

59. 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 Engineering Coordinator, 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

Road/Asset Opening Permit

60. 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.

Traffic Management

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

Stormwater Drainage

- 64. 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.

- 65. 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.

66. 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.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

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

Occupation Certificate Requirements

67. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979*.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The 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.

Fire Safety Certificate Requirements

68. 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*. The *Fire safety Certificate* must be consistent with the *Fire Safety Schedule* which forms part of the Construction Certificate.

A *Fire Safety Statement* must be provided to the Council on an annual basis, each year following the issue of a *Fire Safety Certificate*, which confirms that all the fire safety measures are operating in accordance with the relevant standards of performance.

A copy of the *Fire Safety Certificate/Fire Safety Statement* must be displayed in the building entrance/foyer at all times and a copy must also be forwarded to Fire and Rescue NSW.

Structural Certification

69. A Certificate must be obtained from a *professional engineer*, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the *Principal Certifying Authority*. A copy of which is to be provided to Council.

Sydney Water Certification

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

BASIX Requirements & Certification

71. In accordance with Clause 154B of the *Environmental Planning & Assessment Regulation 2000*, a Certifying Authority must not issue an Occupation Certificate for this development, unless it is satisfied that any relevant BASIX commitments and requirements have been satisfied.

Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the *Principal Certifying Authority* and Council upon issuing an Occupation Certificate.

Occupant Safety - Windows

72. 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:

- The window having a minimum sill height of 1.5m above the internal floor level,
- Providing a window locking device at least 1.5m above the internal floor level,
- 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,
- Installing a fixed heavy-duty gauge metal screen over the opening (e.g. A metal security screen or metal security mesh and frame system, but not standard fly-screen material),
- Other appropriate effective safety measures or barrier.

The relevant safety measures must be implemented prior to the issue of an Occupation Certificate.

Noise Control Requirements & Certification

73. The operation of plant and equipment shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997 and Regulations*.

In this regard, the operation of the plant and equipment shall not give rise to an $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Office of Environment and Heritage (EPA) Noise Control Guidelines.

74. A report must be obtained from a suitably qualified and experienced consultant in acoustics, which demonstrates and certifies that noise and vibration from any plant and equipment (e.g. mechanical ventilation systems and air-conditioners)

satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Office of Environment and Heritage (EPA) Noise Control Manual, Industrial Noise Policy and Council's development consent.

A copy of the report must be provided to the *Principal Certifying Authority* and Council prior to an occupation certificate being issued.

Council's Infrastructure, Vehicular Crossings & Road Openings

75. The owner/developer must meet the full cost for a Council approved contractor to:
 - a) Construct a full width concrete heavy duty vehicular crossing in Belbowrie Road opposite the vehicular entrance to the premises to Council's specifications and requirements. Note: construction of the vehicular crossing may require modification to the footpath on either side of the crossing and changes to the grass swale on either side of the crossing. The applicant must meet the full cost for all works.
 - b) Construct full width concrete vehicular crossings and laybacks at kerb in Cawood Avenue opposite the vehicular entrances to the site, to Council's specifications and requirements.
76. 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.
77. 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 *Civil Works Application Form*, prior to an occupation certificate being issued for the development, 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.
78. 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

Sydney Water Requirements

79. A section 73 Compliance Certificate, under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. An Application for a Section 73 Certificate must be made through an authorised Water Servicing Coordinator. For details, please refer to the Sydney Water web site www.sydneypwater.com.au > Building and developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

Please make early contact with the Water Servicing Co-ordinator, as building of water/sewer extensions may take some time and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority and the Council **prior to issuing an *Occupation Certificate or Subdivision Certificate***, whichever the sooner.

80. 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):
- Finished site contours at 0.2 metre intervals;
 - The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes; and
 - Details of any pumping systems installed (including wet well volumes).
81. 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.
82. The applicant shall submit to the Principal Certifying Authority (PCA) and Council certification from a suitably qualified and experienced professional engineer, confirming that the walls of the basement have been fully tanked and waterproofed to prevent the entry of all groundwater in the basement level/s and that any required sub-soil drainage systems have been provided in accordance with the conditions of this consent..

Landscape Certification

83. Prior to issuing any type of Occupation Certificate, certification from a qualified professional in the landscape/horticultural industry must be submitted to, and be approved by, the PCA, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Landscape Plans by McGregor Coxall, sheet no 01-06, issue C, dated 27.08.15.
84. Suitable strategies shall be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.
85. That part of the nature-strip upon Council's footway which is damaged during the construction of the proposed works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicant's expense prior to the issue of a final Occupation Certificate.

Waste Management

86. 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.

OPERATIONAL CONDITIONS

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

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

Environmental Amenity

87. External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.
88. Street numbering must be provided to the front of the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council.

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.

Residential Parking Permits

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

GENERAL ADVISORY NOTES

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

- A1 The 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 requirements is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million. Alternatively, Council may issue a penalty infringement notice (for up to \$1,500) for each offence. Council may also issue notices and orders to demolish unauthorised or non-complying building work, or to comply with the requirements of Council's development consent.

- A2 Demolition, building or excavation work must not be commenced until;
- A Construction Certificate has been obtained from an Accredited Certifier or Council
 - An Accredited Certifier or Council has been appointed as the Principal Certifying Authority for the development
 - Council and the Principal Certifying Authority have been given at least 2 days notice (in writing) prior to commencing any works.

Council's *Building Approvals & Certification team* can issue Construction Certificates and be your Principal Certifying Authority for the development, to undertake inspections and ensure compliance with the development consent, relevant building regulations and standards of construction. For further details contact Council's *Building Approvals & Certification team* on 9399 0944.

- A3 Any proposed amendments to the design and construction of the building may require a new development application or a section 96 amendment to the existing consent to be obtained from Council, before carrying out such works
- A4 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA), Disability (Access to Premises – Buildings) Standards 2010 and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards. You are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.
- A5 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place, to the satisfaction of the Certifying Authority.
- A6 A Local Approval application must be submitted to and be approved by Council's Building Approvals & Certification team prior to commencing any of the following activities on a footpath, road, nature strip or in any public place: -
- Install or erect any site fencing, hoardings or site structures
 - Operate a crane or hoist goods or materials over a footpath or road
 - Placement of a waste skip or any other container or article.

For further information please contact Council's Building Approvals & Certification team on 9399 0944.

- A7 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.
- A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:
- the consent of the owners of such adjoining or supported land to trespass or encroach, or
 - an access order under the *Access to Neighbouring Land Act 2000*, or
 - an easement under section 88K of the *Conveyancing Act 1919*, or

- an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

- A9 An application must be submitted to an approved by Council prior to the installation and operation of any proposed greywater or wastewater treatment systems, in accordance with the *Local Government Act 1993*.

Greywater/Wastewater treatment systems must comply with the relevant requirements and guidelines produced by NSW Health, NSW Office of Environment and Heritage and other relevant regulatory requirements.

- A10 Development consent and a construction certificate or a complying development certificate must be obtained for proposed plant and equipment, if not included in this consent (where required).

- A11 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 approved paving or the like on the ground.

- A12 External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to any adjoining land.

- A13 Air conditioning plant and equipment shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:

- before 8.00am or after 10.00pm on any Saturday, Sunday or public holiday; or
- before 7.00am or after 10.00pm on any other day.

- A14 Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

- A15 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.

- A16 Further information and details on Council's requirements for trees on development sites can be obtained from the recently adopted Tree Technical Manual, which can be downloaded from Council's website at the following link,

<http://www.randwick.nsw.gov.au> - Looking after our environment – Trees – Tree Management Technical Manual; which aims to achieve consistency of approach and compliance with appropriate standards and best practice guidelines.