

COUNCIL ASSESSMENT REPORT

Panel Reference	2017SCL041
DA Number	DA/82/2017
LGA	Randwick City Council
Proposed Development	Demolish existing buildings in order to enlarge the school. Demolition is to include the existing cottages at nos.24 and 26 Bruce Street, as well as the single storey school building at nos.28 and 30 Bruce Street. The new two storey building is to comprise classrooms, amenities and an undercover multipurpose room associated with St. Spyridon's school.
Street Address	24-30 Bruce Street Kingsford
Applicant/Owner	The Greek Orthodox Parish of South East Sydney
Date of DA lodgement	22 February 2017
Number of Submissions	No submissions
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	6 Private infrastructure and community facilities over \$5 million Development that has a capital investment value of more than \$5 million for any of the following purposes: (a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities, (b) affordable housing, child care centres, community facilities, correctional centres, educational establishments , group homes, health services facilities or places of public worship.
List of all relevant s79C(1)(a) matters	i.e. any: <ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979, as amended • Environmental Planning and Assessment Regulation 2000, as amended • State Environmental Planning Policy (Infrastructure) (ISEPP) 2007 • Randwick Local Environmental Plan 2012 • Randwick Comprehensive Development Control Plan • Randwick Section 94A Development Contributions Plan
List all documents submitted with this report for the Panel's consideration	SCPP Report 2017SCL041 for DA 82 2017 at 24-30 Bruce Street Kingsford.docx
Report prepared by	Elias (Louis) Coorey
Report date	27 July 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

Yes / No

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes / No / Not Applicable

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Yes / No / Not Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

Yes / No / **Not
Applicable**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes / **No**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

SYDNEY CENTRAL PLANNING PANEL (SCPP)

SCPP No	2017SCL041
DA Number	DA/82/2012
Local Government Area	Randwick City Council
Proposed Development	Demolition of existing cottages at No's 24 and 26 Bruce Street, and single storey school building at No. 28-30 Bruce Street. Construction of new two storey (L-shaped) building comprising classrooms, amenities and an undercover multipurpose room.
Street Address	24-30 Bruce Street Kingsford
Applicant/Owner	The Greek Orthodox Parish of South East Sydney
Number of Submissions	No submissions
Recommendation	Approval
Report by	Elias Coorey, Senior Environmental Planning Officer

1. Executive Summary

Council is in receipt of a development application proposing the redevelopment of 24-30 Bruce Street Kingsford for St. Spyridon's school including the demolition of existing dwelling at No. 24 Bruce Street, existing St Spyridon School structures at 26-30 Bruce Street, construction a new 2-storey structure containing classrooms and amenities and an open turfed and landscaped area. In addition to classrooms, there will be specialised rooms for language, music, art and performance, as well as store rooms, uniform shop, lift and toilet facilities. Outdoor areas include paved areas, semi permeable areas and an undercover play and multi-purpose room. No increase in student or staff population is sought which caters for children from kindergarten up to year 2 students.

The application is referred to the Sydney Central Planning Panel for determination pursuant to clause Schedule 4A, Clause 6 of the Environmental Planning and Assessment Act, 1979 as the project relates to an educational facility with a capital investment value of more than \$5 million.

The subject application was advertised and notified from 8 March 2017 – 22 March 2017 in accordance with Randwick Comprehensive Development Control Plan (RDCP) 2013 - Part A Public Notification and the EPA Act 1979. No submissions were received at the conclusion of the public consultation process.

The proposal is permissible in the R3 Medium Density zone identified as a prescribed zone under Clause 28 of the SEPP (Infrastructure) 2007. SEPP – Infrastructure references publications within the Educational Facilities Standards and Guidelines (EFSG) outlining the planning, design and specification requirements for NSW Department of Education School facilities (Public Schools). It is important to note that these are guidelines only and should not be used as a minimum standard or benchmark by which schools are assessed. It is considered that the proposed development will generally satisfy the Educational Facilities Standards and Guidelines

(EFSG) as addressed in this report. The proposed development is generally well designed in relation to landscaping, building design and layout. Where necessary conditions are included to having regard to landscape, design layout and specification standards.

In relation to operation, the application states that there is to be no increase in staff or student numbers.

The proposed development has a maximum height of 10.22m and a floor space ratio of 0.79:1 exceeding the 9.5m maximum height of buildings under Clause 4.3 and the maximum 0.75:1 FSR for buildings in the zone under Clause 4.4 of the RLEP 2012. The applicant has submitted Clause 4.6 exceptions to the development standards for height of buildings and floor space ratio. It is noted that the applicant calculated FSR as 0.89:1 which included the common vertical circulation spaces and plant areas, however as per the definition of gross floor area under the dictionary section of the RLEP, these areas which amount to 186.25sqm have been excluded from the FSR calculation. The variations to the standards are 7.5% for the height of the building and 6.7% for the FSR.

An assessment of the applicants Clause 4.6 exceptions to the above development standards are considered to be well founded. In short, the development's bulk and scale is sufficiently scaled setback from all frontages including the Gardeners Road frontage such that it will not result in any significant adverse impacts on the streetscape character or the amenity of neighbouring properties which are key objectives of the zone and the standards. It is noted that the development adjoins to the south vacant land where the RLEP permits substantially larger forms of development allowing for 24m maximum height of buildings and 3:1 maximum floor space ratio standard. Notwithstanding, the site is located in the vicinity of and within the visual catchment of a RLEP heritage listed item identified as St. Spyridon Church on the opposite side of Mary Harmer Lane to the west, and as per the recommendation of Council's Heritage planner a condition is included for additional articulation through a change in materials along the proposed developments southern elevation creating visual interest and minimising its massing. Having regard to the northern side of the development where the site adjoins a two storey residential dwelling at No. 22 Bruce Street, the development has been sympathetically designed with a single storey scale adjoining with an upper level setback over 8m from this side boundary. The proposed two storey scale of the development is sufficiently separated from the street frontages and neighbouring properties such that it responds appropriately to the varying RLEP standards and the envisaged bulk and two storey scale applicable to the neighbouring properties. Overall, the proposed development will not result in any significant impacts on the streetscape character or the amenity of the neighbouring properties subject to compliance with the conditions included in the recommendation.

The proposal and supporting/supplementary information is considered to satisfy the relevant assessment criteria and will satisfy the objectives of the zone and the applicable standards under the RLEP and a recommendation is made for approval.

2. Site description and locality

The subject site

The site is formally described as Lot A & B DP312131 (24 & 26 Bruce Street); Lot 1030 DP 752011 (28 Bruce Street); and Lot 1 DP 945310 (30 Bruce Street). The overall areas of the site shown bounded in green in aerial view below is trapezoidal in shape with boundaries to Mary Harmer Lane to the west and, Bruce Street to the east.

An aerial view of the site and surrounding area is shown immediately below. The site has a slight slope of up to 1m from east to west. Perpendicular parking is provided on both street frontages. There are two pedestrian points to the site from Mary Harmer Lane and Bruce Street.

The dimension and land area of the site are summarised in the table below:

Boundary	Length	Site Area
Northern, boundary (22 Bruce Street)	44.818m	
Southern, (62-66 Gardeners Road)	36.52m	
Eastern, Bruce Street	53.085m	
Western, Mar Harmer Lane	44.049m	
		2,023sqm

The subject site used as part of the larger St Spyridon School is not a heritage item however on the opposite side of Mary Harmer Lane to the west is St Spyridon Church which is listed as a heritage item under the RLEP 2012.

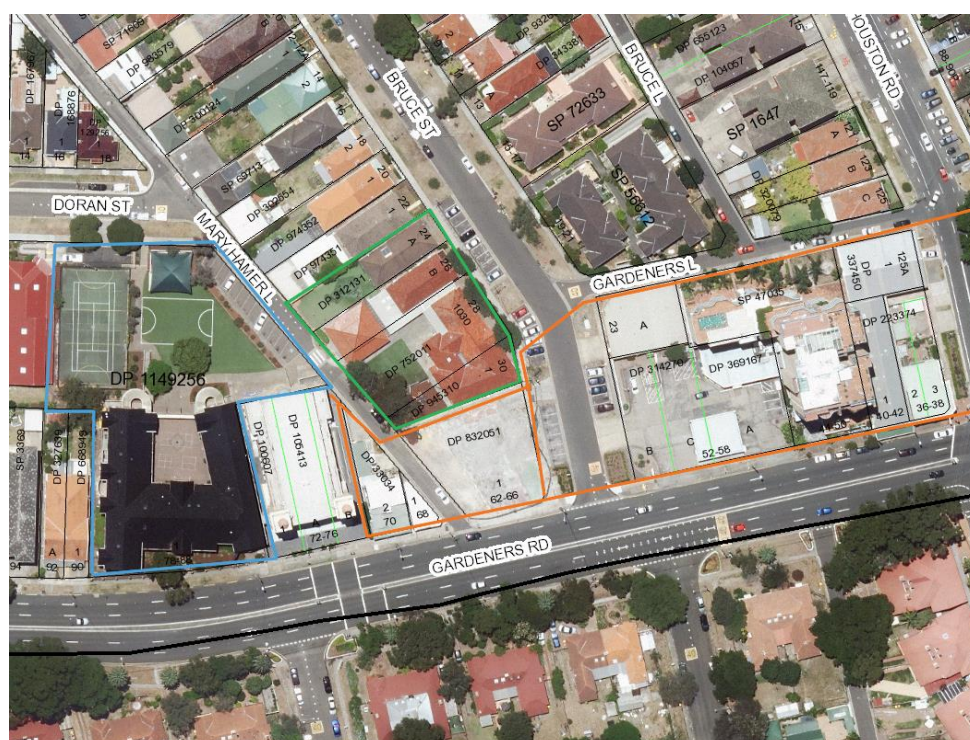




Figure 1: Aerial view of subject site Subject site bounded in green, heritage item bounded in blue; sites zones B2 and subject to 3:1 FSR and 24m height limit bounded in orange.

The site adjoins a two storey residential dwelling to the north at No. 22 Bruce Street and to the south a temporary school playground approved under a previous Development Application identified as No. 62-66 Gardeners Road.

Surrounding locality

The key interface between the subject site and surrounding land varies between medium density zoned land to the north and Local centre zoned land to the south along Gardeners Road. Development surrounding the site to the north is predominately residential in character with a mixture of dwelling houses and low-rise medium density developments. Dwellings and townhouses are typically setback from

the street by 3.5-4.5 metres with landscaped front gardens; however, a number of more recent approvals have been issued for boarding houses with part two part three storey scales. To the south along Gardeners Road frontages land is zoned B2 Local Centre allowing for a 24m building height and an FSR of 3:1 under the RLEP 2012. Council has granted approval for multi storey shop top housing and residential developments along Gardeners Road east of the subject site.

The site and surrounds	
	
View to existing site from Gardeners Road	View towards 24 and 22 Bruce Street. No 24 Bruce Street is sought to be demolished

3. Site history

DA/16/1985 for 28 – 30 Bruce Street (the subject site) gave consent for demolition of the existing dwelling and extending the existing infants school.
DA/345/1985 for nos.78 – 88 Gardeners Road gave consent for utilisation of the existing dwelling as classrooms for the primary school, and a site masterplan.
DA/447/1998 for nos.78 – 88 Gardeners Road gave consent for demolition of the existing building and construction of a new two storey building. This site, to the west of the current church, was occupied by the original church building which was modified for use a library and parish offices.
DA/761/2001 for nos.72 – 76 Gardeners Road gave consent for upgrading of the church forecourt.
DA/528/1994, approved a shade cover in the playground
DA/182/2016 – 62-66 Gardeners Road: approved Use of site as temporary recreational playing field for St Spyridon School in addition to regrading of site, landscaping, fencing, construction of 4 new sump (pits) and placement of artificial turf across site.

4. The proposed development

The subject application seeks consent for the following development:

- Demolition of existing buildings on site;
- Erection of a new two storey school building containing classrooms, administrative rooms, and storage rooms
- New open style fencing along Bruce Street, and Mary Harmer Lane.
- Associated landscaping works, tree removal and tree replacement; and
- Extension of physical infrastructure and services as required.

The proposed development will incorporate 15 new classrooms, including Greek language rooms, music rooms, art room and classrooms for Kindergarten, year 1 and year 2 children. The building will also accommodate a multi-purpose learning spaces, performance room, store rooms, uniform room, staff offices and toilet facilities.

The proposed building has a maximum height above natural ground level of 10.22m (RL33.30 – RL23.08) at the southern side of the building adjoining No. 62-60 Gardeners Road. The building along the northern side of the site - adjoining a two storey dwelling at No. 22 Gardeners Road - has a height of 4.95m and setback 900mm from the side boundary. The first floor level at the northern side of the site has a height of 8.9m and setback 8.1m from the northern side boundary. Figure 2 below shows the development from Bruce Street.

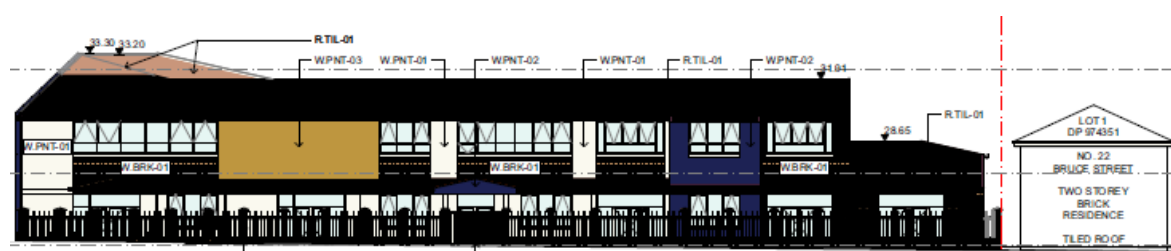


Figure 2: Eastern elevation of proposed development along Bruce Street. Adjoining to the right is No. 22 Bruce Street a two storey dwelling.

No new vehicular access is proposed with two pedestrian access points provided from Mary Harmer Lane and Bruce Street.

The application seeks to remove trees along the Bruce Street frontage and at the south western corner of the site at the Mary Harmer Lane frontage.

The proposed building will have a total gross floor area of 1,613.9m², (excluding common vertical circulation spaces and plant areas (186.25sqm). The applicant indicates that should the corridor spaces at ground and first floor level be excluded that the development would have a lower floor space ratio.

5. Clause 4.6 Exception to Development Standard

Clause 4.6 exceptions have been submitted for exceeding the maximum RLEP standards under Clause 4.3 height of buildings and Clause 4.4 Floor space ratio.

5.1 Height of Buildings

The proposal contravenes the maximum Height of Buildings development standard contained in clause 4.3(2) of RLEP 2012. The applicant has submitted a written request seeking to justify the contravention of the standard pursuant to Clause 4.6 of RLEP 2012. The variation is summarized in the table below:

Proposed maximum height of buildings	10.22m
Maximum height of buildings	9.5 metres
Maximum Height exceeding LEP control	0.72m (7.5%)

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 subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

The concurrence of the Department of Planning and Environment must also be obtained for development that contravenes a development standard. However, pursuant to the Notification of assumed concurrence 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 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 subclause (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 *in 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.

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 height of buildings standard are set out in clause 4.3(1) of RLEP 2012 as follows:

- a)** *To ensure that the size and scale of development is compatible with the desired future character of the locality,*
- b)** *To ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,*
- c)** *To ensure that the size and scale of development is compatible with the desired future character of the locality.*

The applicant's written justifications in the following key arguments for the departure from the standard are as below:

Clause 4.6- Exception to a Development Standard (Height of Buildings) under Clause 4.3 of Randwick Local Environmental Plan 2012.

Property

**New Infants School (K-2), St Spyridon Junior School
At 24-30 Bruce Street Kingsford NSW 2032
For The Greek Orthodox Parish Of South East Sydney,
St Spyridon 78 Gardeners Road Kingsford Nsw 2032**

This written request is made pursuant to the provisions of Clause 4.6 of Randwick Local Environmental Plan 2012 (LEP 2012).

A variation is sought in relation to the Height of Buildings Standard contained within Clause 4.3 of LEP 2012 in relation to a Development Application seeking the approval of Randwick Council for the "Proposed Demolition of Existing School Buildings and Construction of a new, Part 1 and Part 2 Storey School building at 24-30 Bruce Street, Kingsford.

THE DEVELOPMENT STANDARD AND THE VARIATION SOUGHT

Clause 4.3 – Height of Buildings

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

Comment:

A Height of Buildings Standard of 9.5m applies to lands within the area "J2".

The proposed maximum building height is 10.22m which represents a numerically minor breach of 0.70m (4.7%)

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

Comment:

The proposed School Building, notwithstanding the breach of the Height of Buildings Standard, is very reasonable and satisfies the above objectives of Clause 4.3 for the following reasons:

(a) The proposed building height is consistent with the desired future character of the neighbourhood for the following reasons:

- (i) The breach of the Height of Buildings Standard is only numerically minor (4.7%).
- (ii) The great majority of the proposed building is significantly below the 9.5m Height Standard.
- (iii) The breaching portion represents only a very small part of the apex of the roof ridge and is at the southern boundary, which adjoins a property zoned B2 Local Centre which allows a height of 24metres.
- (iv) The breaching portion is toward the southern boundary of the subject site which is well removed from the residential zoning on the northern boundary.
- (v) The proposed building is one storey on the northern boundary adjacent to the residential zoning
- (vii) The proposed building form will provide a transition from the residential zoning to the B2 Local Centre zoning resulting in a conservative building form when compared against the Planning Controls.

(b) Based on the “Shadow Diagrams”, the proposed building will not have unreasonable impacts on the adjoining property to the south.

(c) There will not be unreasonable adverse impacts in terms of views, loss of privacy, overshadowing or visual intrusion.

(d) The proposed building height will not have an adverse impact on the public domain for the following reasons:

- i. The adjoining public domain is not nominated as a location for “Significant Views and Vistas”.
- ii. The proposed front building element is only 2 storeys in construction.
- iii. The proposed front façade is significantly below Council’s 9.5m Height of Buildings Standard.

IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

It is considered that the compliance with the Height of Buildings Standard under LEP 2014 is unreasonable and unnecessary in the circumstances of the proposed development. There is only a numerically minor breach over a very small part of the proposed roof at its most south western side. The great majority of the proposed dwelling is significantly below the 9.5m Height Standard.

ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?

There are strong environmental planning grounds to justify contravening the Height of Buildings Standard.

The environmental planning grounds which justify a contravention of the Height of Building Standard are largely expressed in this Clause 4.6 Request, in particular;

i. The proposed front building element is conservative in height as evidenced by the fact that the proposed front façade is 2 storeys in height and significantly below Council's 9.5 Height of Buildings Standard. The articulation of the front façade further reduces the bulk, height and scale of the proposed front building element when viewed from the street.

ii. The majority of the proposed building is significantly below the 9.5m Height Standard.

iii. The proposed front building element represents an unobtrusive structure, but with simple elegance.

IS THE OBJECTION TO THE DEVELOPMENT STANDARD WELL FOUNDED?

It is considered that this Clause 4.6 Request to the Height of Building Standard is well founded and supportable for the reasons outlined in this Clause 4.6 request and the accompanying S E E.

In assessing whether the Applicants' Clause 4.6 exception to the building height standard is well founded the following matters must be addressed:

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?

Objectives of the Height of Buildings Standard

1. The objectives of the Height of Buildings standard are as follows:

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

Assessment:

- The proposed development will result in a breach of the height of buildings development standard by approximately 720mm along a portion of the southern elevation as shown in figure 3 below:

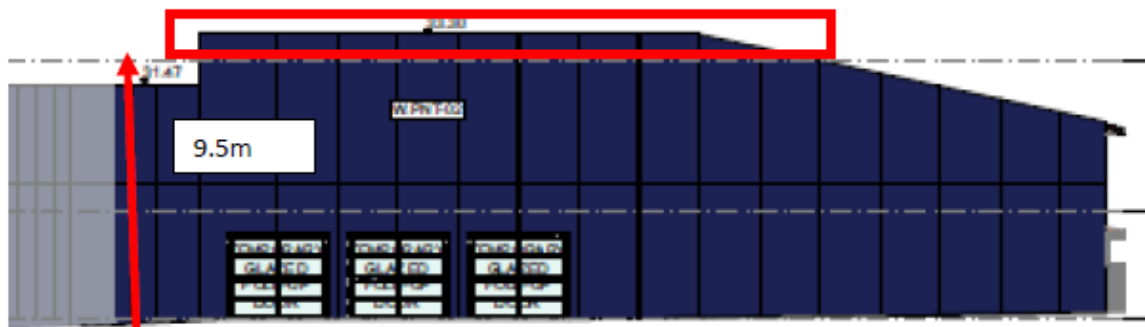


Figure 3: Southern elevation of the proposed development showing in red outline the area of the building exceeding the maximum 9.5m height of buildings standard in the RLEP 2012.

- The exceedance in height occurs at a setback from the Bruce Street frontage providing a 6.5m wall height along the Bruce Street frontage and a height between 7.51m and 8.71m wall height along the Mary Harmer Lane frontage

which is generally consistent with the wall heights that would be permissible for medium density forms of development in the zone.

- The non-compliant walls are located with nil setbacks to Mary Harmer Lane and the southern side boundary adjoining No. 62-66 Gardeners Road. In relation to Mary Harmer Lane, the nil setback will not detract from the streetscape along Mary Harmer Lane given that the wall runs for a proportionally small 6.6m length along a sizable site frontage of 44m along Mary Harmer Lane.
- In relation to the southern elevation the 22m long wall runs for a larger proportion of the southern side boundary adjoining No. 62-66 Gardeners Road. Given the proximity to the heritage item, a recommendation is made to include a condition requiring further articulation in order to create greater visual interest and break up its massing. It is also important to consider that in relation to the desired future character of the area, the southern neighbouring property at No. 62-66 Gardeners Road, also owned by the proponent, is zoned B2 Local Centre under the RLEP within the Kingsford Town Centre permitting a greater bulk and scale than that on the subject site. In particular, the RLEP standards permit buildings with a height of 24m and a FSR of 3:1. Further, the RDCP policy guide applicable to the south neighbouring property also does not stipulate setback numerical controls, requiring instead a merit assessment of setbacks. In this respect, a development of the southern neighbour fronting Gardeners Road allows for two storeys of commercial/office space at ground and first floor level which is similar to the scale sought as part of this application. In terms of amenity, the commercial uses does not necessitate the provision of solar access;

Overall, the proposal will respect the transition in scale permissible between the medium density zone to the north and the Local Centre zone to the south.

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

Assessment:

- The development has been the subject of assessment by Councils Heritage Planner having regard to the proximity of the development to the heritage item identified as St. Spyridon on the opposite side of Mary Harmer Lane. In having regard to Heritage Conservation considerations under the RLEP and the RDCP, a condition is included in the recommendation section to require greater articulation to the developments southern elevation. This condition will reduce the massing and provide greater visual interest which will achieve greater compatibility with the heritage item.
- In relation to the proposed western elevation fronting Mary Harmer Lane that is opposite the heritage item, the development has been designed with walls that are substantially below the maximum permissible under the RDCP and open space areas dominate the frontage along Mary Harmer Lane ensuring a sympathetic scale opposite the heritage item of St. Spyridon church.

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

Assessment:

- The proposed scheme will not result in any adverse visual privacy impacts to the immediate neighbouring dwelling to the north as the development is limited to a single storey scale with the upper level setback a considerable distance away.
- The extent of the solar access impacts to the vacant land neighbouring to the south is acceptable.
- The additional building height above the maximum does not contribute to any adverse view loss impacts to any neighbouring buildings.

Consistency with the objectives of the zone:

- ***To enable other land uses that provide facilities or services to meet the day to day needs of residents.***
- ***To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.***
- ***To protect the amenity of residents.***

The proposed development satisfies the above R3 zone objectives for the following reasons:

- The majority of the site has historically operated as a school and will continue that use within a new building will cater for the educational needs of residents and the St. Spyridon Church community.
- The southern wall will also be consistent with the desired future character that is anticipated by the larger height and floor space ratio standards applying to the neighbouring property to the south at No. 62-66 Gardeners Road. This site is zoned B2 Local Centre under the RLEP and located within the Kingsford Town Centre which permits buildings with a height of 24m and a FSR of 3:1. This approach to scaling down the building has been used along the northern side boundary where the building is a single storey scale with the upper level setback around 8m from the boundary shared with No. 22 Bruce Street containing a single dwelling.
- The proposal provides for an appropriately sized and scaled building given its location. The non-compliant heights will not result in any significant adverse impacts on the amenity of residents subject to variation in materiality of the southern elevation.

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

Comment:

The proposal has been designed to achieve the purpose of the standard and planning objectives for the locality. It will be an appropriate fit within the scale and character of development in the immediate and broader context whilst minimising potential adverse impacts on surrounding properties.

The applicant's written request has successfully demonstrated that there are sufficient environmental planning grounds particular to the site to justify contravening the development standard.

Does the Council have delegation to exercise the concurrence function of the Department of Planning and Environment for development that contravenes a development standard? If so:

(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.

Comment:

Pursuant to the Notification of assumed concurrence 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 Department of Planning and Environment under clause 4.6(4)(b) of RLEP 2012 may be assumed to the granting of development consent to the development that contravenes the development standard for the maximum building height in clause 4.3 of RLEP 2012.

Variation from the adherence to the numerical building height 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.

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

5.2 Floor space ratio

The proposal seeks a floor space ratio of 0.797:1 exceeding the 0.75:1 maximum floor space ratio standard contained in Clause 4.4. The applicant has submitted a written request seeking to justify the proposed variation summarized in the table and illustrated in Figure containing excerpts from the submitted section plan below:

Floor Space Ratio (FSR)	
Development Standard	0.75:1
Proposal	0.797:1
Excess above RLEP Standard	6.2% (95sqm)

Request to vary development standard

The applicant has submitted a written request seeking to justify the contravention of the maximum floor area standard contained in clause 4.4 of RLEP 2012, pursuant to Clause 4.6 of RLEP 2012.

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 subclause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

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 Infrastructure 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 subclause (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.

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:

- (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 in support of the Clause 4.6 exception:

Clause 4.6- Exception to a Development Standard (Floor Space Ratio of Buildings) under Clause 4.3 of Randwick Local Environmental Plan 2012.

Property

**New Infants School (K-2), St Spyridon Junior School
At 24-30 Bruce Street Kingsford NSW 2032
For The Greek Orthodox Parish Of South East Sydney,
St Spyridon 78 Gardeners Road Kingsford NSW 2032**

This written request is made pursuant to the provisions of Clause 4.6 of Randwick Local Environmental Plan 2012 (LEP 2012).

A variation is sought in relation to the Floor space ratio Buildings Standard contained within Clause 4.3 of LEP 2012 in relation to a Development Application seeking the approval of Randwick Council for the "Proposed Demolition of Existing School Buildings and Construction of a new, Part 1 and Part 2 Storey School building at 24-30 Bruce Street, Kingsford.

THE DEVELOPMENT STANDARD AND THE VARIATION SOUGHT

Clause 4.3 – Floor Space Ratio of Buildings

(2) The floor space ratio of a building on any land is not to exceed the maximum floor space ratio shown for the land on the Floor Space Ratio of Buildings Map.

Comment:

A Floor Space Ratio of Buildings Standard of 0.75:1 applies to lands within the area "I". The proposed maximum floor space ratio 0.797:1 which represents a numerically minor breach of 6.3%

Objectives of Floor space ratio standards:

- (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 relevant objectives for development within the zone in which the development is proposed to be carried out (Zone R3) are:

- * To provide for the housing needs of the community within a medium density residential environment.
- * To provide a variety of housing types within a medium density residential environment.
- * To enable other land uses that provide facilities or services to meet the day to day needs of residents.

- * To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.
- * To protect the amenity of residents.
- * To encourage housing affordability.

Comment:

The proposed School Building, notwithstanding the breach of the Floor Space Ratio of Buildings Standard, is very reasonable and satisfies the above objectives of Clause 4.3 for the following reasons:

(a) The proposed building floor space is consistent with the desired future character of the neighbourhood for the following reasons:

- (i) The breach of the floor space of Buildings Standard is only numerically minor (6.3%).
- (ii) The proposed site is located adjacent (on the southern boundary) to a Local Centre zoning which allows for a floor space ratio of 3:1.
- (iii) Due to the nature of the existing use, Infants School, there are Standards that are required for learning spaces; their sizes and number of learning spaces required by The Department of Education.
- (iv) Also to allow safe movement throughout the school a large percentage of floor space is allocated for travel.
- (v) The proposed building form will provide for a transition from the residential zoning to the B2 Local Centre zoning resulting in a conservative building form when compared against the Planning Controls.

(b) Based on the "Shadow Diagrams", the proposed building will not have unreasonable impacts on the adjoining properties.

(c) There will not be unreasonable adverse impacts in terms of views, loss of privacy, overshadowing or visual intrusion.

(d) The proposed building will not have an adverse impact on the public domain for the following reasons:

- i. The adjoining public domain is not nominated as a location for "Significant Views and Vistas".
- ii. The proposed front building element is only 2 storeys in construction, with the addition of verandas to keep the bulk form to a minimum.
- iii. The proposed siting of the building will not have an adverse impact on the amenity of adjoining and neighbouring land in terms of visual bulk.

IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

It is considered that the compliance with the Floor space ratio of Buildings Standard under LEP 2012 is unreasonable and unnecessary in the circumstances of the proposed development. There is only a numerically minor breach of 6.3% which is insignificant for the use of the building as an infant's school.

ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?

There are strong environmental planning grounds to justify contravening the floor space ratio of Buildings Standard.

The environmental planning grounds which justify a contravention of the floor space ratio Building Standard are largely expressed in this Clause 4.6 Request, in particular;

- i. The proposed building has been intentionally designed to keep the bulk to a minimum to be compatible with the residential character of the area. The articulation of the front façade further reduces the bulk, height and scale of the proposed front building element when viewed from the street.
- ii. The proposed building will have the appearance of a residential form without the appearance of a large school structure.
- iii. The proposed front building element represents an unobtrusive structure, but with simple elegance.

IS THE OBJECTION TO THE DEVELOPMENT STANDARD WELL FOUNDED?

It is considered that this Clause 4.6 Request to the floor space ratio of Building Standard is well founded and supportable for the reasons outlined in this Clause 4.6 request and the accompanying S E E.

In assessing whether the Applicants' Clause 4.6 exception to the building height standard is well founded the following matters must be addressed:

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?

Objectives of the Floor space ratio standard

The objectives of this Floor Space Ratio standard are as follows:

- (a) *to ensure that the size and scale of development is compatible with the desired future character of the locality,*
 - The scale of the building facing Bruce Street and Mary Harmer Lane is not inconsistent with the objectives of the standard or the zone, both in relation to bulk, scale and to the desired future character. The floor space is contained along the southern side of the site adjacent to a zone that permits substantially larger bulk and scale such that the variation of the standard in this instance will not create any precedent effect.
 - Strict compliance with the standard would be of limited practical effect, given the perceived floor space will be negligible given the scale of the building within the site remains two storeys within a relatively large site, the bulk is distributed closer to the adjoining property to the south where the RLEP envisages a substantially larger bulk and scale of development than that proposed as part of this application.

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

The proposed development is designed to maximise solar access to the school yard area whilst also provided sufficient areas to shield students from harsher weather. The internal layout achieves good cross ventilation for the majority of classrooms.

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

Council's Heritage Planner has reviewed the subject application and raises no objections subject to variation in materials along the southern elevation and impact on the heritage item identified as St. Spyridon.

(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 as conditioned will minimise the perceived external bulk and scale along the southern side of the site which displays the most pronounced area of bulk within the site. The distribution of floor area within the site along the southern side of the site are such that it has no implications for other land in terms of overshadowing, overlooking, views or significant visual impact. The effect of distributing floor area along the southern side of the site is such that the proposed development is located well away from the neighbouring residential uses and will not result in any unreasonable adverse impacts on the residential properties in the vicinity of the site.

It is considered that the proposed development is consistent with the objectives of the floor space ratio standard.

Objectives of the R3 zone

(1) The objectives of the R3 zone are as follows:

(2) The relevant objectives for development within the zone in which the development is proposed to be carried out are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*
- *To protect the amenity of residents.*
- *To encourage housing affordability.*
- *To enable small-scale business uses in existing commercial buildings.*

The proposed development is permissible within the R3 medium Density Residential zone under the SEPP Infrastructure. The proposal provides for an appropriate medium density development on the lower scale envisaged by the RLEP, and in the context of the site located alongside the Kingsford Town Centre which allows for a substantially larger density and bulk and scale.

The proposal has been designed with consideration of surrounding amenity, seeking to minimise environmental impacts upon neighbouring sites. The built form will maintain

the desirable attributes of the existing and desired future character of the residential area to the north. The scheme as conditioned will provide a highly articulated development of appropriate scale that remains sympathetic to the foreshore area and allows for an appropriate economic use of the subject site.

The proposed development is considered to be in the public interest because it is consistent with the objectives of the standard and the relevant objectives for development within Zone R2 - Low Density Residential.

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

The applicant's written request is considered to have successfully demonstrated that compliance with the development standard in question is unreasonable or unnecessary in the circumstances of the case. The proposal has been designed to achieve the planning objectives for the locality and to fit in with the scale and character of development in the immediate context, whilst minimising potential adverse impacts on surrounding properties. The applicant's written request has successfully demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

Does the Council have delegation to exercise the concurrence function of the Director-General of the Department of Planning and Infrastructure for development that contravenes a development standard? If so:

- (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.**

Comment:

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 Infrastructure under clause 4.6(4)(b) of RLEP 2012 may be assumed to the granting of development consent to the development that contravenes the development standard for floor space within clause 4.4 of RLEP 2012.

Variation from the adherence to the numerical floor space 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.

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 will not be necessary, in this case, for maintaining the low density housing forms in the locality, including dwelling houses and semi-detached housing, and the like, where such development does not compromise the amenity of surrounding residential areas and is compatible with the dominant character of existing and likely future development surrounding the site.

6. Notification

The subject application was advertised and notified from 8 March 2017 – 22 March 2017 in accordance with RDCP Part A Public Notification and the EPA Act 1979. Council has not received any submissions in response to the notification of the DA.

7. Technical officer and external comments

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

7.1 Development Engineers comment

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

The comments are detailed below:

An application has been received for the demolition of all structures on site and construction of a new 2 storey preparatory school including turfed play area associated with St Spyridon College Primary School (variations to building height and floor space ratio controls) at the above site.

This report is based on the following plans and documentation:

- Architectural Plans by Michael and Christine Avramidis dated 20th February 2017;*
- Statement of Environmental Effects by Michael Avramidis dated February 2017*
- Detail & Level Survey by Sydney Surveyors dated 15th April 2015.*
- Geotechnical report by JK Geotechnics dated 31st August 2015 (App 4)*
- Stormwater management Report by Woolacotts Consulting Engineers (App 3)*
- Traffic Management Plan by Colston Budd Hunt & Kaffes Pty Ltd dated July 1999*

Drainage Comments

On site stormwater detention is required for this development.

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.

The stormwater must be discharged (by gravity) either:

- i. Directly to the kerb and gutter in front of the subject site in Bruce Street, Mary Hammer lane ; or*
- i. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system),*

Flooding Comments

The subject site lies within the study catchment for the council commissioned and adopted Kensington/Centennial Park Flood Study. The study does not indicate the site will be subject to flooding during major storm events, hence no flood related development controls will be required.

Geotechnical Comments

The drainage plans submitted with the application indicate that stormwater from the proposed development will be discharged to an infiltration area. Council's Private Stormwater Code currently requires that any ground water table should be at least 2m below the base of the infiltration area.

The submitted geotechnical report indicates the presence of sandy soils and groundwater table at more than 4m below the ground surface. It is therefore considered the minimum 2m separation will be able to be achieved on the subject site and is suitable for infiltration. Drainage conditions permitting an infiltration system have been included in this report.

As no basement structures are proposed groundwater conditions including tanking and waterproofing of basement are not required.

Parking & Traffic Comments

There is no proposed increase in student or staff numbers hence additional parking is not required. It is noted however that the school is currently experiencing a parking shortfall and additional off-street parking would be encouraged and supported by Development Engineering.

The submitted Traffic Management plan should not be approved as part of this development consent as it is dated July 1999 and is now out of date. Another DA for the school at 15 Doran St in 2009 (DA/648/2009) required works to be undertaken in Doran St near the corner of Mary Hammer Lane to improve traffic flow. The Traffic Management plan was subsequently updated in 2010 (See Trim document D01023565) and was approved by Council's Dept of Integrated Transport (See D01033431). It mainly refers to traffic flows in Doran St and Mary Hammer Lane.

Conditions requiring the preparation of a new TMP to incorporate the changes in Doran St and the development subject of this DA have been included in this report.

A condition has also been included requiring that on-going traffic arrangement shall be in accordance with this Traffic management plan subject to regular review by Council's Road safety Officer.

Undergrounding of Power

At the ordinary Council meeting on the 27th May 2014 it was resolved that;

Should a mains power distribution pole be located on the same side of the street and within 15m of the development site, the applicant must meet the full cost for Ausgrid to relocate the existing overhead power feed from the distribution pole in the street to the development site via an underground UGOH connection.

*The subject **is** located within 15m of a power pole on the same side of the street hence the above clause **is** applicable. A suitable condition has been included in this report.*

Sydney Water Comments

Under Sydney Water guidelines the proposed development represents "special use re-development where new building is involved". Hence in accordance with item 9 in Attachment A of the Sydney Water Guidelines, a Section 73 compliance Certificate will be required. A suitable condition has been included in this report.

Landscape comments:

The inspection of 22 June 2017 revealed a row of five, evenly spaced Hibiscus tileaceus (Cottonwoods, T4-8) within the site, between the existing buildings and front fence, along the length of eastern site boundary, fronting Bruce Street, of between 3-6m in height, with only the two most northern trees and most southern tree in this group being covered by the provisions of Council's DCP.

They are only in fair health and condition as their restricted growing environment has increased competition between each tree, with their trunks now exhibiting pronounced leans/bias, which is a concern for their future status and safety, especially in a school setting, and have also been heavily under-pruned to facilitate access, which has affected their form and habit.

While their co-joined canopies provide effective shading for the existing outdoor play-space, as well as partial visual and acoustic screening from the busy roadway, they are a very common species, with none of these being significant in anyway, and given their direct conflict with the major works that are shown for this same area, no objections are raised to their removal, with a row of 5 new decorative native trees to be re-planted in this same area as part of the new landscape scheme.

The only other established vegetation within this site is along the western boundary, fronting Day Lane, where there is a stand of three mature Eucalyptus scoparia (Wallangarra White Gums, T1-3) which while covered by the DCP, are in poor health and condition due to the amount of dieback and deadwood throughout their crowns, with their lean/bias to the east, directly towards the open space and children's playground heavily reducing their suitability for preservation.

As this species is well-known as having a short life-span, there is no justification to require the major re-designs that would be needed to allow their retention given the impact this would have on the layout of the outdoor area and new buildings, and on this basis, consent has been granted for their removal, with 7 new trees (including a replacement Gum), to be provided in this same area, which will ensure that a reasonable level of environmental amenity are maintained.

7.2 Building Services and Environmental Health Comments

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

7.3 Heritage Planner

The development application was referred to Council's Heritage Planner for assessment. No objection is raised to the proposed development subject to conditions of consent.

The Site

The site has a primary frontage to Bruce Street, and a secondary rear frontage to Day Lane, and is occupied by two single storey cottages and an existing single storey school building. To the south west of the site, on the opposite side of Day Lane/Mary Hamer Lane is St. Spyridon Church listed as a heritage item under Randwick LEP 2012. The Randwick Heritage Study Inventory Sheet for the building notes the competently simplified East Mediterranean style of the building, flanked by twin towers, with significance to a significant ethnic community within Randwick City.

Proposal

The application proposes to demolish existing buildings in order to enlarge the school. Demolition is to include the existing cottages at nos.24 and 26 Bruce Street, as well as the single storey school building at nos.28 and 30 Bruce Street. The new two storey

building is to comprise classrooms, amenities and an undercover multipurpose room. Immediately to the south of the site at nos.62 – 66 Gardeners Road is a vacant site, formerly occupied by retail buildings, which is apparently to be used as a recreational field under an approved da (possibly in 2001?).

Background

DA/16/1985 for nos.28 – 30 Bruce Street (the subject site) gave consent for demolition of the existing dwelling and extending the existing infants school.

DA/345/1985 for nos.78 – 88 Gardeners Road gave consent for utilisation of the existing dwelling as classrooms for the primary school, and a site masterplan.

DA/447/1998 for nos.78 – 88 Gardeners Road gave consent for demolition of the existing building and construction of a new two storey building. This site, to the west of the current church, was occupied by the original church building which was modified for use as a library and parish offices.

DA/761/2001 for nos.72 – 76 Gardeners Road gave consent for upgrading of the church forecourt.

Submission

The application has been accompanied by a Statement of Environmental Effects which addresses heritage controls in Randwick LEP 2012 and Randwick DCP 2013. The SEE notes that the main façade of the Church faces Gardeners Road and the location of the proposed redevelopment of the Infants School will not impede on the views of the church that currently exist.

Controls

Clause 5.10(1) of Randwick LEP 2012 includes an Objective of conserving the heritage significance of heritage items, including associated fabric, settings and views.

Comments

The existing single storey school building at nos.28 – 30 Bruce Street has a d-shaped footprint with its long side facing Bruce Street, a small central courtyard and a rear grassed play area. The dwelling at no.26 Bruce Street has been modified to provide classroom accommodation and has a store room and adjacent covered area at the rear of the site. The dwelling at no.24 Bruce Street, appears to be an modified early twentieth century dwelling.

The proposed L-shaped building will have one leg parallel to Bruce Street and one leg built along the south boundary of the site. The footprint will define a rear play area including a roofed area at the rear of the site. The front setback of the proposed building is to be similar to front setbacks of adjoining dwellings to the north. An entry porch will project forward to the front boundary. Surrounding development includes both original single storey dwellings and more recent two storey buildings. The heritage item St. Spyridon Church has a considerably greater height and scale and appropriately dominates surrounding development in the immediate vicinity. The front (east) elevation of the two storey scale of the building will be modulated by a verandah, while the north elevation will be set back from the north side boundary to adjacent residential development by around 8m. The south elevation however will present a blank, unarticulated elevation to the south side boundary, facing Gardeners Road. This elevation is set back from Gardeners Road by around 30m, while the front façade of the church is set back from Gardeners Road by around 10m. The area between this boundary and Gardeners Road is to be developed as a recreational field with artificial turf. External materials for the building include face brick and rendered walls, and tile roofing. The Bruce Street elevation of the building will be modulated by

the use of a combination of face brick and three different rendered finishes. The 35m long Gardeners Road elevation is to be painted in a uniform dark grey/purple colour. It would be preferable if the recreation field site could include planting in order to screen this 5m high wall. Alternatively, it is recommended that the finishes for the south elevation of the building be amended to modulate this elevation and to better relate to the light coloured brick walls of St. Spyridon Church. An appropriate consent condition should be included. Subject to this consent condition conserving the heritage significance of heritage items, including associated fabric, settings and views.

Recommendation

The following conditions should be included in any consent:

- The finishes for the south elevation of the building, facing Gardeners Road, are to be amended to modulate this elevation and to better relate to the light coloured brick walls of St. Spyridon Church. Amended details of the proposed colours, materials and textures (ie- a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Director City Planning, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.*

7.4 External authority comments

The application was referred to the following external referral agencies:

7.4.1 Eastern Suburbs Local Area Command

The Eastern Suburbs Local Area Command provided comments in relation to the proposed development located in Appendix 'A' attached to this report.

Suitable condition included in the recommendation to address the matters above.

7.4.2 Joint Regional Planning Panel

Pursuant to Schedule 4A, Clause 6 of the Environmental Planning and Assessment Act, 1979, educational facilities with a capital investment value of more than \$5 million are regionally significant. As such, the application is referred to the Joint Regional Planning Panel (JRPP) for determination as the consent authority

8. Relevant Environmental Instruments

The site is zoned R3 under Randwick Local Environmental Plan 2012. Educational establishments are not permissible under the RLEP 2012. The proposal is permissible under the SEPP Infrastructure 2007. Notwithstanding, the Randwick Local Environmental Plan 2012 is a matter for consideration in the assessment of the subject development application under Section 79C of the Environmental Planning and Assessment Act 1979 (as amended). The Development Application has been assessed in accordance with the provisions of the following relevant planning documents:

- Environmental Planning and Assessment Act 1979, as amended**
- Environmental Planning and Assessment Regulation 2000, as amended**
- State Environmental Planning Policy (Infrastructure) 2007**
- Randwick Local Environmental Plan 2012**
- Randwick Comprehensive Development Control Plan**
- Randwick Section 94A Development Contributions Plan**

An assessment of the proposed development under the planning controls is provided in Sections 7.1 and 8 of this report.

8.1 State Environmental Planning Policy (Infrastructure) 2007

The proposal is permissible in the R3 Medium Density zone (a prescribed zone) under Clause 28 of the SEPP (Infrastructure) 2007 which states:

(1) Development for the purpose of educational establishments may be carried out by any person with consent on land in a prescribed zone.

Clause 32 of SEPP Infrastructure 2007 requires the consent authority to take into consideration all relevant standard in the following State government publications:

- (a) School Facilities Standards—Landscape Standard—Version 22 (March 2002):* The open spaces of the school are designed to capture solar access from midday to the afternoon, the open space provides landscaping for the purposes of shading and microclimates. The surface finish comprises hardy surface areas such as concrete paving, soft paving and artificial turf areas which are considered able to withstand high levels of use and multi-faceted recreational uses; suitable conditions are also included relating to drainage and it is noted that the applicant has submitted a Consulting Engineers storm water management report having regard to the submitted geotechnical report; The open space is also designed with landscaping to provide a barrier to the neighbouring residential uses to the north at No. 22 Bruce Street and the building has been designed to also screen unwanted views from the public areas along Gardeners Road and Bruce Street with casual surveillance provided from St Spyridon's Church located on the opposite side of Mary Harmer Lane.
- (b) Schools Facilities Standards—Design Standard (Version 1/09/2006):* The development has been designed to connect the internal spaces with the outdoor spaces. The internal classrooms particularly those at first floor level contain acoustic folding stacking doors allowing flexibility of uses of the rooms both in terms of teaching, administration as well as furniture layout.
- (c) Schools Facilities Standards—Specification Standard (Version 01/11/2008).* This aspect provides guidance in relation to the provisions under the National Construction Code. A suitable condition is included in the recommendation section requiring compliance with the relevant specifications in the Building Code of Australia.

The proposed development as designed and conditioned is considered to satisfy the matters for consideration under SEPP Infrastructure 2007.

8.2 Randwick Local Environmental Plan 2012

The following table considers the proposed development having regard to the zoning provisions and development standards contained in RLEP 2012 that are of relevance to the subject development application:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Zoning:	The site is zoned R3 Medium		The use of the site as an educational establishment is permissible in the zone under the SEPP Infrastructure.

Height of buildings	9.5m	10.22m*
Floor space ratio	0.75	0.797:1* excluding the vertical circulation elements, lifts, stairs and plant areas (186.9sqm) which equates to a variation of 6.3%.
Lot Size (Minimum)	Existing allotment	Yes

*See exception to the development standard

- **Land Use R3 Medium Density Residential zone**

The proposed continued use of the site falls within the definition of "educational establishment" under the RLEP and is a permissible use under the SEPP Infrastructure 2007. Consideration is given to the surrounding residential zones which in this instance includes zone R3 neighbouring the northern parts of the site along Bruce Street and Mary Harman Lane and zoned B2 Local Centre neighbouring the southern parts of the site fronting Gardeners Road.

The relevant objectives of the R3 zone are addressed as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*
- *To protect the amenity of residents.*
- *To encourage housing affordability.*

The proposed development satisfies the objectives of the R3 zone for the following reasons:

- The proposal is designed to be consistent with the built form of the adjoining zones to the north which is zoned R3 Medium Density zone and the neighbouring land to the south zoned B2 Local Centre. The proposed built form have generally been designed in accordance with urban design and heritage principles. The proposed bulk and scale of the development responds well to the bulk and scale of adjoining sites, having particular regard to existing structures as well as the likely future development on the neighbouring allotments or those in the vicinity.
- The application does not propose any increase in pupil numbers above the level at which the school is presently operating.
- A detailed traffic management plan has been submitted and assessed by Council addressing the traffic and parking issues in the area resulting from the operation of the school. Appropriate conditions are included in the recommendation section of this report.
- The use of the site is not changing, having operated for a significant period of time, however the proposed use of the site at No. 24 Bruce Street has the potential to result in added impacts on the amenity of the northern neighbour at

No. 22 Bruce Street and suitable conditions are included to minimise those impacts such as noise, and lighting.

- The proposed architectural design, materials and colours of the new building are generally considered to contribute to the existing development along Bruce Street as well as the likely development along Bruce Street.
- The proposed development will not have any significant adverse visual impacts on the streetscape, or the heritage building opposite subject to conditions.
- As will be discussed in the “Environmental Assessment” section of this report, the proposed development will not result in unreasonable impacts on the amenity of the adjoining residences.

- **Clause 5.10 – Heritage Conservation**

When determining a development application required by this clause, the Council must take into account the extent that the works will have upon the significance of any heritage item or the conservation area.

The site opposite contains St Spyridon Church listed as a heritage item under Randwick Local Environmental Plan 2012.

The Randwick Heritage Inventory and the proposed development is the subject of review and comments from Councils Heritage planner. The main concern raised by Councils heritage planner relates to the unarticulated and massing of the southern elevation adjacent to the playground located between the subject site and Gardeners Road and its adverse impact on the significance of the ST Spyridon the heritage item located on the opposite side of Mary Harmer Lane.

- **Clause 6.2 Earthworks**

Clause 6.2 requires Council to consider the likely impact of any earthworks on the existing drainage patterns and soil stability in the locality, and the effects of the works on the likely future use of the land.

The proposal will minimal excavation to accommodate the subterranean plant and footings. The applicant has submitted a Geotechnical Investigation Report for the site as well as storm water calculations. Councils Development Engineer has reviewed the documentation and recommended the inclusion of suitable conditions. Certification will also be required prior to the issuing of an occupation certificate. Accordingly, the proposal is acceptable in relation to the provisions of Earthworks.

- **6.4 Stormwater Management**

Stormwater and hydraulic services drawings have been prepared for the proposed development. However, the submitted stormwater drainage plans have not been approved as part of this development consent. A suitable condition has been included to require amended calculations and plans with levels reduced to Australian Height Datum in relation to site drainage to 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.

8.3 Policy Controls

8.3.1 Randwick Comprehensive Development Control Plan (RDCP) 2013

Building envelope and design

The proposed building has a maximum height of between 4.95m and 10.22m ground level and represents a significant improvement in built form in comparison to the existing classrooms present on the development site. The proposed development is consistent with the built form envisaged for medium density development in the area. The proposed development continues the rhythm of the built form across the Bruce Street frontage providing a front setback commensurate with those of dwellings further north along Bruce Street.

The proposed building form along Mary Harmer Lane is also a reasonable development response to the scale of development along the laneway providing a greater degree of open space that also ingratiate itself with good connection with the Church opposite which is an intimate part of the school and its teaching.

The building massing and setbacks are generally consistent with the building envelopes of development in the locality.

The figure below shows the proposed 3D built form as seen from Bruce Street.



Eastern elevation of the proposed development as seen from Bruce Street



North eastern elevation along Bruce Street showing the scale of the adjoining existing dwelling at NO. 22 Bruce Street at right.

The proposed building is of a traditional design and features a neutral palette of walls, it contains sufficient mix of materials and colours and fenestration along its façade such that its visual presence when viewed from Bruce Street is inoffensive. The building façade provides a balance between horizontal and vertical and solid and lightweight elements to create visual interest and relief and is considered to carry acceptable architectural merit.

Heritage considerations

As detailed in section 6 of this report, Council's heritage planner are satisfied that subject to a condition being included that reduces the southern elevations massing and scale that the visual presence of the building in comparison to the heritage item will be suitable in terms of minimising the impact.

Landscaping and circulation

It is considered that the proposal will provide a suitable landscape ambience within the site and represents a substantial improvement to the internal circulation and landscaped open space. The proposed open spaces achieves better planning outcomes for the site in terms of circulation, recreation and separation from the heritage item. The

The open space located along Mary Harmer Lane provides a cohesive and useable recreation space. This approach to locate the open space in close proximity to the school will maintain the strong visual and functional relationship between the church and the rest of the school ensuring important views to the new building is maintained.

Safety and security

The proposed building contains windows on the elevations that overlook the two main frontages. The development is considered to improve casual surveillance of the public domain and hence security of the area.

Privacy

The proposed layout of the development ensures that noise is directed towards the church and school grounds and not onto neighbouring residential properties. The proposed development sits around 32 away from the nearest residents property located on the opposite side of Bruce Street.

Therefore, the proposed windows and location of recreational school yard are not considered to result in unreasonable privacy impacts on the surrounding residences.

Noise

The subject site has been continuously used as a school for 24 years. Noise emission from normal school operation should be considered a normal, expected outcome in the locality. Given the substantial separation distance of the school from the surrounding dwellings, the development is not considered to result in unreasonable impacts on the local residents. It is also noted that classrooms will be occupied during school hours, which are 8:15am to 3:00pm, Monday to Friday.

Notwithstanding, the proposed use of classrooms specifically for music and performances does have the potential to result in noise impacts on the surrounding area. As such a suitable condition is included with respect to protection of the environment.

Traffic/parking/servicing

Council's Development Engineer does not have any objections to the proposed development in relation to parking and traffic subject to conditions being included.

Solar access

The proposed development has been designed to maximum solar access to the playground areas. Shadows cast by the proposed development are generally contained within the temporary playground at No. 62-66 Gardeners Road, however solar access will still be retained for a minimum of three hours during the winter solstice. The proposed development does not result in any appreciable increase in shadowing to the neighbouring properties.

Therefore, the proposed building will not result in any significant impacts on the surrounding residential properties and the public domain in mid-winter.

8.3.2 Section 94 Contributions Plan

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

Category	Cost	Applicable Levy	S94A Levy
Development Cost more than \$200,000	\$6,043,810	1%	\$60,438.10

9. Section 79C Considerations

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

Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	Refer to the "Environmental Planning Instruments" section of this report for details.
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	Not applicable.
Section 79C(1)(a)(iii) – Provisions of any development control plan	Refer to the "Policy Control" section of this report.
Section 79C(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 79C(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 79C(1)(b) – The likely impacts of the development, including	The environmental impacts of the proposed development on the natural and built environment, which are otherwise not addressed in this report, are discussed in the paragraphs

Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
environmental impacts on the natural and built environment and social and economic impacts in the locality	below. The proposed development is consistent with the dominant character in the locality. The proposal is not considered to result in detrimental social or economic impacts on the locality.
Section 79C(1)(c) – The suitability of the site for the development	As detailed in this assessment, the site is considered to be suitable for the existing and continued future use for educational purposes, subject to proposed conditions of approval.
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	Refer to section 5 of this report for detail discussion.
Section 79C(1)(e) – The public interest	The continued use of the site for educational purposes is considered to be in the public interest subject to adequate management of any impacts arising from that that use. It is considered that impacts of the proposed development have been adequately addressed in the application and controlled by way of proposed conditions of consent.

9. Relationship to City Plan

The relationship with the City Plan is as follows:

Outcome 4: Excellence in urban design and development.
Direction 4b: New and existing development is managed by a robust framework

10. Financial Impact Statement

There is no direct financial impact for this matter.

10. Conclusion

The subject application proposes the demolition of the existing school buildings within the subject site including a single dwelling at NO. 24 Bruce Street. The proposal seeks to construct a two storey school building in an L-Shaped configuration with the bulk and scale located along the southern side boundary. The proposal is reliant on a Clause 4.6 exception to both the height of buildings and the Floor space ratio standards in the RLEP. The applicant provides well-founded arguments that despite the variations to the standards, the proposed development will satisfy the objectives of the standards and the objectives of the zone. The proposed development has been the subject of review by Councils Heritage planner and an appropriate condition is included in order to create more articulation along the southern elevation in order to minimise the impacts on the Heritage Item known as St. Spyridon Church. The proposed development distributes its bulk and scale appropriately within the site and will not result in any significant or unreasonable adverse impacts on the amenity of the neighbouring properties or the surrounding area.

DEVELOPMENT CONSENT 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
DA001 Issue B	Michael Z. Avramidis	20/2/17	22 February 2017
DA031 Issue B		20/2/17	22 February 2017
DA100 Issue B		20/2/17	22 February 2017
DA110 Issue B		20/2/17	22 February 2017
DA111 Issue B		20/2/17	22 February 2017
DA200 Issue B		20/2/17	22 February 2017
DA220 Issue B		20/2/17	22 February 2017
DA L01 Issue A	Umbaco	1.7.15	22 February 2017
DA L02 Issue A		1.7.15	22 February 2017

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. The finishes for the south elevation of the building, facing Gardeners Road, are to be amended to modulate this elevation and to better relate to the light coloured brick walls of St. Spyridon Church. Amended details of the proposed colours, materials and textures (i.e.- a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Manager Development Assessments, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.

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 Randwick City Council or an Accredited Certifier. 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.

Section 94A Development Contributions

4. In accordance with Council's Section 94A Development Contributions Plan effective from 21 April 2015, based on the development cost of \$6,043,810 the following applicable monetary levy must be paid to Council: \$60,438.10

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. Please contact Council on telephone 9093 6999 or 1300 722 542 for the indexed contribution amount prior to payment.

To calculate the indexed levy, the following formula must be used:

$$\text{IDC} = \text{ODC} \times \text{CP2/CP1}$$

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.

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

5. 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.

Security Deposits

6. The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; 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*:

- \$4000.00 - Damage / Civil Works Security Deposit

Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to

Council's infrastructure.

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

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

Sydney Water

7. 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™** 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.

Traffic management

8. Prior to the issuing of a construction certificate the applicant shall submit and have approved by Council's Manager of Integrated Transport and Traffic Committee an amended traffic management plan that incorporates the changes in the updated TMP dated May 2010 (as required by DA/648/2009 and approved by CC/181/2010) as well as the proposed development approved in this consent.

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

9. In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA). Details of compliance with the BCA are to be included in the construction certificate application.
10. Access and facilities for people with disabilities must be provided in accordance with the relevant requirements of the Building Code of Australia, Disability (Access to Premises – Buildings) Standards 2010, relevant Australian Standards and conditions of consent, to the satisfaction of the Certifying Authority.
11. Demonstrate that the development will comply with the relevant Educational Facilities Standards and Guidelines (EFSG) with the following publications:
 - a. *School Facilities Standards—Landscape Standard—Version 22 (March 2002)*
 - b. *Schools Facilities Standards—Design Standard (Version 1/09/2006)*
 - c. *Schools Facilities Standards—Specification Standard (Version 01/11/2008)*.

Crime Prevention through Environmental Design (CPTED)

12. The proposed development shall incorporate the recommendations made in the Crime Risk Assessment Report by NSW Police Eastern Beaches Local Area Command date stamped received by Council on 16 March 2017.

Stormwater Drainage & Flood Management

13. 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
 - d. 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.
 - e. 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.
 - f. 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.
14. 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) either:
 - i. Directly to the kerb and gutter in front of the subject site in Bruce Street or Mary Hammer Lane; or
 - ii. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system),

NOTES:

- Infiltration will not be appropriate if the site is subject to rock and/or a water table within 2 metres of the base of the proposed infiltration area, or the ground conditions comprise low permeability soils such as clay.
- If the owner/applicant is able to demonstrate to Council that he/she has been unable to procure a private drainage easement through adjoining premises and the ground conditions preclude the use of an infiltration system, a pump-out system may be permitted to drain the portion of the site that cannot be discharged by gravity to Council's street drainage system in front of the property.

Pump-out systems must be designed by a suitably qualified and experienced hydraulic consultant/engineer in accordance with the conditions of this consent and Council's Private Stormwater Code.

- c) Should stormwater be discharged to Council's street drainage system, an on-site stormwater detention system must be provided to ensure that the maximum discharge from the site does not exceed that which would occur during a **10% AEP (1 in 10 year)** storm of one hour duration for existing site conditions. All other stormwater run-off from the site for all storms up to the 5% AEP (1 in 20 year) storm is to be retained on the site for gradual release to the street drainage system, to the satisfaction of the certifying authority.

An overland escape route or overflow system (to Council's street drainage system) must be provided for storms having an annual exceedance probability (AEP) of 1% (1 in 100 year storm), or, alternatively the stormwater detention system is to be provided to accommodate the 1% AEP (1 in 100 year) storm.

- d) Should stormwater be discharged to an infiltration system the following requirements must be met;

i. Infiltration systems/Absorption Trenches must be designed and constructed generally in accordance with Randwick City Council's Private Stormwater Code.

ii. The infiltration area shall be sized for all storm events up to the 5% AEP (1 in 20 year) storm event with provision for a formal overland flow path to Council's Street drainage system.

Should no formal overland escape route be provided for storms greater than the 5% AEP (1 in 20yr) design storm, the infiltration system shall be sized for the 1% AEP (1 in 100yr) storm event.

iii. Infiltration areas must be a minimum of 3.0 metres from any structure (Note: this setback requirement may not be necessary if a structural engineer or other suitably qualified person certifies that the infiltration area will not adversely affect the structure)

iv. Infiltration areas must be a minimum of 2.1 metres from any site boundary unless the boundary is common to Council land (eg. a road, laneway or reserve).

- e) Determination of the required cumulative storage (in the on-site detention and/or infiltration system) must be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Run-off Volume 1, 1987 Edition.

- f) 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% AEP (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.

- g) Should a charged system be required to drain any portion of the site, the charged system must be designed such that;
- i. There are suitable clear-outs/inspection points at pipe bends and junctions.
 - ii. The maximum depth of the charged line does not exceed 1m below the gutter outlet.
- h) Generally all internal pipelines must be capable of discharging a 1 in 20 year storm flow. However the minimum pipe size for pipes that accept stormwater from a surface inlet pit must be 150mm diameter. The site must be graded to direct any surplus run-off (i.e. above the 1 in 20 year storm) to the proposed drainage (detention/infiltration) system.
- i) A sediment/silt arrester 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 arrester 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 arrester pit shall be regularly inspected and cleaned".

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

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

(In this regard, it must be noted that this condition must not result in any increase in the heights or levels of the building. Any variations to the heights or levels of the building will require a new or amended

development consent from the Council prior to a construction certificate being issued for the development).

- k) The maximum depth of ponding in any above ground detention areas and/or infiltration systems with above ground storage shall be as follows (as applicable):
- i. 150mm in uncovered open car parking areas (with an isolated maximum depth of 200mm permissible at the low point pit within the detention area)
 - ii. 300mm in landscaped areas (where child proof fencing is not provided around the outside of the detention area and sides slopes are steeper than 1 in 10)
 - iii. 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10
 - iv. 1200mm in landscaped areas where a safety fence is provided around the outside of the detention area
 - v. Above ground stormwater detention areas must be suitably signposted where required, warning people of the maximum flood level.

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

- l) A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
- m) A 'V' drain (or equally effective provisions) are to be provided to the perimeter of the property, where necessary, to direct all stormwater to the detention/infiltration area.
- n) Mulch or bark is not to be used in on-site detention areas.
- o) 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.

Waste Management

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

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

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

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

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

Landscape Plan

16. 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 Umbaco Landscape Architects, project no.1506, dwg DA L01-02, issue A, dated 01.07.15.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

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

Certification, PCA & other Requirements

17. 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 licensed *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.

Dilapidation Reports

18. A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified independent person, in the following cases:
- excavations for new buildings, additions to buildings and other substantial structures which are proposed to be located within the *zone of influence* of the footings of a building located upon an adjoining premises;
 - buildings sited up to shared property boundaries (e.g. terraced or attached buildings);
 - excavations for new buildings, additions to existing buildings which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises;
 - as otherwise may be required by the *Principal Certifying Authority*.

The dilapidation report shall include details of the current condition and status of any building or other substantial structure located upon the adjoining or nearby premises and shall include relevant photographs of the structures, to the satisfaction of the *Principal Certifying Authority*.

The dilapidation report must be submitted to the Council, the *Principal Certifying Authority* and the owners of the adjoining/nearby premises encompassed in the report, prior to commencing any site works (including any demolition work, excavation work or building work).

Construction Noise & Vibration Management

19. Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents and the relevant requirements of the *Protection of the Environment Operations Act 1997* and NSW EPA Guidelines must be satisfied at all times.

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

Construction Site Management Plan

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

- construction noise and vibration management;
- construction traffic management details.

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

21. 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 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.

Construction Traffic Management

22. An application for a 'Works Zone' and Construction Traffic Management Plan must be submitted to Councils Integrated Transport Department, and approved by the Randwick Traffic Committee, for a 'Works Zone' to be provided in Bruce Street 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.

23. 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.

24. 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.

Public Utilities

25. 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.
26. 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.

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

27. 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.

Site Signage

28. 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

29. 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 or sawing 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 5.00pm• Saturday - No work permitted• Sunday & public holidays - 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.

Demolition Work Requirements

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

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2011;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;
- Randwick City Council Asbestos Policy (adopted 13 September 2005).

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

Removal of Asbestos Materials

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

- Relevant Occupational Health & Safety legislation and WorkCover NSW requirements
- Randwick City Council's Asbestos Policy
- A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10m² of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifying Authority.
- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2005*. Details of the landfill site (which must be lawfully able to receive asbestos materials) must be provided to the Principal Certifying Authority.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person, must be provided to Council and the Principal certifying authority upon completion of the asbestos related works which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

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

Public Safety & Site Management

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

- a) Public access to the building site and materials must be restricted by existing boundary fencing or temporary site fencing having a minimum height of 1.5m, to Council's satisfaction.

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

- b) 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.
- c) 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.
- d) All building and site activities (including storage or placement of materials or waste and concrete mixing/pouring/pumping activities) must not cause or be likely to cause 'pollution' of any waters, including any stormwater drainage systems, street gutters or roadways.

Note: It is an offence under the Protection of the Environment Operations Act 1997 to cause or be likely to cause 'pollution of waters', which may result in significant penalties and fines.

- e) 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. Details are to be provided in the Construction Site Management Plan and a copy is to be provided to the Principal Certifying Authority and Council.
- f) Site fencing, building materials, bulk bins/waste containers and other articles must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health, Building and Regulatory Services department.
- g) 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. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

Support of Adjoining Land, Excavations & Retaining Walls

33. 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.
34. 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, piling or other measures are to be submitted to and approved by the Principal Certifying Authority.

35. Prior to undertaking any demolition, excavation or building work in the following circumstances, a report must be obtained from a *professional engineer* which details the methods of support for the dwelling or associated structure on the adjoining land, to the satisfaction of the *Principal Certifying Authority*:
- when undertaking excavation or building work within the zone of influence of the footings of a dwelling or associated structure that is located on the adjoining land;
 - when undertaking demolition work to a wall of a dwelling that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling);
 - when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land;
 - as may be required by the *Principal Certifying Authority*.

The demolition, excavation and building work and the provision of support to the dwelling or associated structure on the adjoining land, must also be carried out in accordance with the abovementioned report, to the satisfaction of the *Principal Certifying Authority*.

Building Encroachments

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

Road/Asset Opening Permit

37. 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

- 38. 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.
- 39. 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.

40. All conditions and requirements of the NSW Police, Roads & Maritime Services, Transport and Council must be complied with at all times.

Stormwater Drainage

41. 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.

42. 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.

Tree Removal

43. Approval is granted for removal of the following trees within the subject site so as to accommodate the works and associated landscaping in these same areas as shown:

- a) The row of five, evenly spaced *Hibiscus tileaceus* (Cottonwoods, T4-8) within the site, fronting Bruce Street, as their restricted growing environment has resulted in poor condition, with their trunks leaning and have been heavily under-pruned to facilitate access which has affected their form, habit and suitability for preservation;
- b) The stand of three mature *Eucalyptus scoparia* (Wallangarra White Gums, T1-3) along the western site boundary, fronting Day Lane, as they are in poor health and condition due to the amount of dieback and deadwood throughout their crowns, as well as their lean/bias to the east, directly towards the open space and children's playground.

Landscaping

44. The Certifying Authority/PCA must ensure that as part of implementing the approved Landscape scheme, suitable barriers/delineation or similar are provided around garden beds so as to prevent pedestrian access and protect all new plantings from damage, such as the area where the new Scribbly Gum is shown between the terrace/walkway and soft paving area.

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

45. 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*.

Council's Infrastructure & Vehicular Crossings

46. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works" and the following requirements:
- a) All work on Council land must be carried out by Council, unless specific written approval has been obtained from Council to use non-Council contractors.
 - b) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a *Pre-paid Works Application Form*, prior to issuing an occupation certificate, together with payment of the relevant fees.
 - c) If it is proposed to use non-Council contractors to carry out the civil works on Council land, the work must not commence until the written approval has been obtained from Council and the work must be carried out in accordance with the conditions of consent, Council's design details and payment of a Council design and supervision fee.
 - d) The civil works must be completed in accordance with Council's conditions of consent and approved design and construction documentation, prior to occupation of the development, or as otherwise approved by Council in writing.

Council's Infrastructure, Vehicular Crossings & Road Openings

47. The owner/developer must meet the full cost for a Council approved contractor to:
- a) Re/construct concrete footpath along the full site frontage, if required. Any unpaved areas on the nature strip must be turfed and landscaped to Council's specification.
48. 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.
49. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
- a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will

respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.

- b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
- c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

Service Authorities –

Sydney Water Requirements

- 50. 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.sydneywater.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 of an Occupation Certificate.

Undergrounding of Power

- 51. Power to the development shall be relocated to an underground (UGOH) connection from the nearest or most appropriate mains pole in Bruce Street. All work shall be to the requirements and satisfaction of Ausgrid and at no cost to Council

Stormwater Drainage

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

Notes:

- a. The "restriction on the use of land" and "positive covenant" are to be to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's Development Engineer.
- b. The works as executed drainage plan and hydraulic certification must be submitted to Council prior to the "restriction on the use of

land" and "positive covenant" being executed by Council.

53. A works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced hydraulic consultant/engineer must be forwarded to the Principal Certifying Authority and the Council. The works-as-executed plan must include the following details (as applicable):
- The location of any detention basin/s with finished surface levels;
 - Finished site contours at 0.2 metre intervals;
 - Volume of storage available in any detention areas;
 - The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes;
 - The orifice size/s (if applicable);
 - Details of any infiltration/absorption systems; and
 - Details of any pumping systems installed (including wet well volumes).
54. 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.

Landscaping

55. 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 Umbaco Landscape Architects, project no.1506, dwg DA L01-02, issue A, dated 01.07.15, as well as any relevant conditions of consent.
56. Suitable strategies shall be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.

OPERATIONAL CONDITIONS

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

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

External Lighting

57. 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.

Plant & Equipment – Noise Levels

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

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 & Heritage (EPA) Noise Control Guidelines.

Air Conditioners

59. 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.

Rainwater Tanks

60. The operation of plant and equipment associated with rainwater tanks are to be restricted to the following hours if the noise emitted can be heard within a habitable room in any other residential premises:

- before 8.00am or after 8.00pm on weekends or public holiday; or
- before 7.00am or after 8.00pm on weekdays.

Stormwater Detention/Infiltration System

61. The detention area/infiltration system must be regularly cleaned and maintained to ensure it functions as required by the design.

Traffic Management

62. On-going traffic arrangements for the site shall be in accordance with the approved Traffic Management plan for the site and clearly communicated to student's parents and staff prior to the issuing of an Occupation Certificate.

NOTE: The Traffic Management plan is a working document and shall be subject to regular review in consultation with Council's Road Safety Officer. Any future changes to the Traffic Management plan shall be clearly communicated to student's parents and staff.

ADVISORY NOTES

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

- 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 \$6,000) 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 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA) and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards and you are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.
- A3 In accordance with the requirements of the *Environmental Planning & Assessment Act 1979*, building works, including associated demolition and excavation works (as applicable) 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.
- A4 Council's Building Certification & Fire Safety team can issue your *Construction Certificate* 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 on 9093 6944.
- A5 A Local Approval application must be submitted to and be approved by Council 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 on 9093 6944.

- A6 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.
- A7 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.

- A8 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.
- A9 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.
- A10 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.
- A11 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).