

Sydney Central Planning Panel

SCPP No.	2017SCL058
DA No:	DA/88/2017, 150-174 Barker Street, 81 Botany Street, 1 Jane Street, 18 Jane Street, 21 Jane Street, 8-20 Young Street, 28-42 Young Street and 29-39 Young Street RANDWICK NSW 2031– Integrated development application for development of Southern Precinct of "Newmarket Randwick" site including demolition of existing buildings and structures; on Lot S1 construction of a five storey residential flat building containing 17 dwellings, basement carparking, 9 three storey multi attached dwelling units and parking for 40 vehicles: on Lot S2 construction of a three storey residential flat building containing 16 dwellings, basement carparking, 4 two storey multi-unit dwelling units and parking for 24 vehicles: on Lot S3 construction of a part 4/part7 storey residential flat building containing 112 dwellings, basement carparking, 12 two storey multi dwelling units, carparking for 134 vehicles; landscaping and associates works.
Applicant:	Cbus Property Sydney Residential Pty Ltd
Report By:	Louis Coorey

Executive Summary

Council is in receipt of a development application (DA) seeking consent for development of Southern Precinct of "Newmarket Site" site including demolition of existing buildings and structures and construction of development on sites identified as development Lots S1, S2 & S3 approved in the Concept Plan (DA/88/2016). The subject DA is referred to the Sydney Central Planning Panel (SCPP) for determination, pursuant to Schedule 4A, of the Environmental Planning and Assessment Act 1979 and Part 4 of State Environmental Planning Policy (State and Regional Development) 2011. The development has a capital investment value in excess of \$20 million.

The Concept plan approval (DA/88/2016) provided for a mixed use development on the subject site comprising the following:

- Site preparation including demolition of structures, removal of vegetation and excavation
- Road infrastructure and public domain conceptual layout
- Subdivision into 9 development lots and one public open space lot
- Four new public streets intersecting from Young, Jane and Botany Street
- A set of built form controls (dwelling types, storeys, heights, setbacks and landscape areas) that will guide the form and character of buildings to be erected on the site
- 19 buildings which range from 2 to 8 storeys with an indicative number of 650-750 residential dwellings, retail and commercial uses including an urban plaza.
- Provision of parking at the basement level in addition to on-street parking across the site
- Adaptive re-use of the Newmarket House and the Big Stable Building
- Site remediation and earthworks;
- A new 5,000sqm public park within the eastern precinct.
- The Newmarket site is subject to a voluntary planning agreement which provides a 1.5% contribution of affordable housing, the transfer of the Big Stable to Council opposite Lot S3, dedication of a public park and roads as well as a contribution towards traffic calming. The proposal is consistent with the terms of the VPA.

This staged DA for development lots S1, S2 & S3 are located at 181 Botany Street, 28, 30 and 32-42 Young Street, Randwick. Lot S1 will have a site area of 3,429sqm, Lot S2 will have a site area of 2,074sqm and Lot S3 will have a site area of 5,467sqm equating to a total site area of 10,970sqm across the three lots (excluding the existing and new roads).

The proposal on Lot S1 at the western end of the site is for the construction of a five storey residential flat building containing 17 dwellings, basement carparking, and 9 three storey multi attached dwelling units with detached building at the rear fronting a new laneway containing parking for 40 vehicles with habitable unit above; on Lot S2 located at the northern end of the southern precinct, the proposal seeks the construction of a three storey residential flat building in attached configuration containing 16 dwellings, basement carparking, and 4 two storey multi-unit dwelling units and parking for 24 vehicles; on Lot S3 located at the southern end of the precinct, the proposal seeks the construction of a part 4/part7 storey residential flat building containing 112 dwellings, basement carparking for 134 spaces, and 12 two storey multi dwelling units, with two car spaces for each; also proposed is landscaping and associates works . The proposal two new roads (ST3 & DV1), a new laneway (RL1) and an extension of Jane Street (ST4).

The site currently accommodates a large horse stable at the south eastern corner of the site (32-42 Young Street), various ancillary structures are located throughout including a single dwelling at No. 28 Young Street and 21 Jane Street. No heritage items are located within the southern precinct development site, however three heritage items of significance are located within the wider 'Newmarket site'. These are described as the 'Big Stable Newmarket' (I458) a state heritage item located closest to the development lot S3; further northward are items of local heritage significance described as 'Newmarket House' (I466) and 'Newmarket sale ring' (I292). The site is also adjacent to north by the Struggletown Heritage Conservation Area.

A significant tree Fig Tree is located along the northern eastern corner of Lot S1 proposed to be retained. Other significant gum trees within the site are the subject of assessment and conditions by Council's Landscape Officer. Significant trees being retained are several gum trees located along the southern boundary of the site adjoining Paine Reserve closest to the Community Garden and Rainbow Public School. Rainbow Street Public School adjoins the site to the south east. Adjoining the site to the west and north fronting Botany Street, and Middle and Jane Street respectively are low density residential development.

The development application was publicly exhibited, advertised within the local newspaper and site notifications attached to the subject premises as per the requirements of the Randwick Development Control Plan 2013 (RDCP2013) for Public Notification. Four submissions were received in response to the public exhibition raising issues with the density, size and scale of buildings, traffic & parking as well the loss of amenity for neighbouring residents and Rainbow Public school. The concerns raised are addressed in the submissions section of this report and relevant assessment comments throughout the body of this report.

The application includes a request under Clause 4.6: Exceptions to Development Standard given the development of building S3.2 four storey Residential Flat Building (RFB) and S3.3 7 storey RFB breach the maximum building height development standards of 12m and 25m respectively. Building S3.3 breaches the height standard due to plant and equipment extending 270mm above the maximum. Building S3.2 with a height of 14.39m breaches the 12m height standard by 2.39m due to the proposal seeking an increase in width of the southern road (DV1) which has resulted in building S3.2 shifting across from the 25m height standard into the 12m height standard. It is considered unreasonable and unnecessary to strictly apply the standards in this instance. Despite the exceedances, the proposed development will result in a better planning outcome and will continue to achieve the purpose of the standard and planning objectives for the locality. In this respect, the proposal will be an appropriate fit within the site and will be located further away from neighbouring properties such as Paine Reserve, Rainbow Public School and the heritage item identified as 'The Big Stable' which minimises potential adverse impacts. Overall, the

applicant's request under Clause 4.6: Exception to the height of buildings development standards are considered to be well founded.

The application was referred to the Design Excellence Panel (DEP) as per the requirements of State Environmental Planning Policy 65: Design Quality for Residential Apartment Development. The DEP made comment on two iterations of the development. The key issues raised by the panel relate to improving visual connections, façade articulation and provision of sustainable landscaping and façade treatment.

Amendments have been made to the application in response to the DEP comments including increasing the undercroft entrance located at the eastern side of lot S3 to two storeys, and streamlining the ground level terraces and entrances to the 7 storey flat building in Lot S3. The proposal as whole having regard to the key design principles are considered to display a high level of compliance. However, the proposal continues to not meet the relevant design criteria for solar access to apartments for the 7 level flat building in Lot S3 where less than 70% of apartments receive the required 2 hours of solar access. Despite this, the design guidance provided in the Apartment Design Guide identifies certain circumstances where receiving the minimum 2 hours of solar access during the winter solstice may not be possible on some sites in circumstances where the site is south facing and where significant views are oriented away from the desired aspect for direct sunlight. The development of the 7 storey building in Lot S3 meets contains these circumstances.

Having regard to the relevant assessment criteria, it is considered that the proposed development satisfies the relevant statutory assessment criteria and will result a built form and spatial relationship with the public and private domain that will become an contributing addition to the Newmarket Site as a whole and will not result in any significant or unreasonable adverse amenity impacts on the surrounding properties.

The application is recommended for approval.

Site Description and Locality

The subject site includes a number of allotments comprising the following addresses and respective lot and DP numbers including (bold emphasis added to identify lots of the development site):

Address:	Lot and DP number
164-174 Barker Street, Randwick	Corner Lot A, DP 330407 Newmarket Stable
158-162 Barker Street, Randwick	Corner Lot 1, DP 1041725 Pt Stable 2
156 Barker Street, Randwick	Lot 4 DP 165055
152-154 Barker Street, Randwick	Lot 1 DP 81877 & Lot 4 DP 1039981
150 Barker Street, Randwick	Lot 1, DP 932027
1 Jane Street, Randwick	Lot B DP 344447
18 Jane Street, Randwick	Lot 1 DP 85107
21 Jane Street, Randwick	Lot B DP 312682
181 Botany Street, Randwick	Lot 3 DP 1102370
8-12 Young Street, Randwick	Lot 1 DP 87614
14-20 Young Street	Corner Lot 3 DP 1041725
28 Young Street, Randwick	Part Lot 1 DP 541576
30 Young Street, Randwick	Part Lot 1 DP 541576
32-42 Young Street, Randwick	Lot 1 DP 1102864

Table 1: Addresses associated with the Newmarket Site. Bold emphasis added to identify the sites the subject of this Development application for the southern precinct.

The development site (comprising lots S1, S2 & S3) comprises of a total site area of 10.97 ha. The Newmarket site as a whole is bound by roads including, Young, Jane, Botany, Barker, Middle and Meeks Street. Topographically the development site falls from north to south and from west to east.

The immediate context of the subject site, to the west along Botany Road and Jane Street is single and two storey dwelling houses and to the south (rear) is Paine Reserve and Rainbow Street Public School. Other developments include to the north of Barker Street, the Prince of Wales Hospital Precinct and to the east is the Randwick Girls High School.

The subject DA is situated on Lots S1, S2 & S3 at the southern end of the site known as the southern precinct, at 181 Botany Street, 28, 30 and 32-42 Young Street, Randwick. Lot S1 located within 181 Botany Street will have a site area of 3,429sqm, Lot S2 located in the northern part of the southern precinct will have a site area of 2,074sqm and Lot S3 located in the southern part of the development site will have a site area of 5,467sqm equating to a total site area of 10,970sqm across the three lots (excluding the existing and new roads). See Figure 1 of the site and surrounds.



Figure 1: S1,S2 & S3 Site & surrounds (Source: Urbis SEE)

The site currently accommodates a large single-storey horse stable with associated landscaping and structures. Five significant trees are located within the site along the eastern boundary and are proposed to be retained.

Relevant History

Concept plan Development Application No. DA/88/2016 was the subject of a S34 agreement pursuant to the Land & Environment Court Act. The approved Concept Plan provided for a mixed use development on the wider 'Newmarket' site comprising the following:

- Site preparation including demolition of structures, removal of vegetation and excavation
- Road infrastructure and public domain conceptual layout
- Subdivision into 9 development lots and one public open space lots
- Four new public streets intersecting from Young, Jane and Botany Street

- A set of built form controls (dwelling types, storeys, heights, setbacks and landscape areas) that will guide the form and character of buildings to be erected on the site
- 19 buildings which range from 2 to 8 storeys with an indicative number of 650-750 residential dwellings, retail and commercial uses including an urban plaza.
- Provision of parking at the basement level in addition to on-street parking across the site
- Adaptive re-use of the Newmarket House and the Big Stable Building
- Site remediation and earthworks

The proposal included dedication of a new 5,000sqm public park within the eastern precinct which is consistent in its location with Section 3.4: Open Space Network and Landscaping of the Newmarket Green DCP. The roads are also dedicated to Council as part of the subdivision.

The approved scheme allowed exceedances of the height at the northern end of the site. The concept plan also includes a voluntary planning agreement which provides a 1.5% contribution of affordable housing and the transfer of the Big Stable – a heritage item and its curtilage to Council. The following figure indicates the approved buildings envelopes and the urban structure associated with the Concept Plan approval.

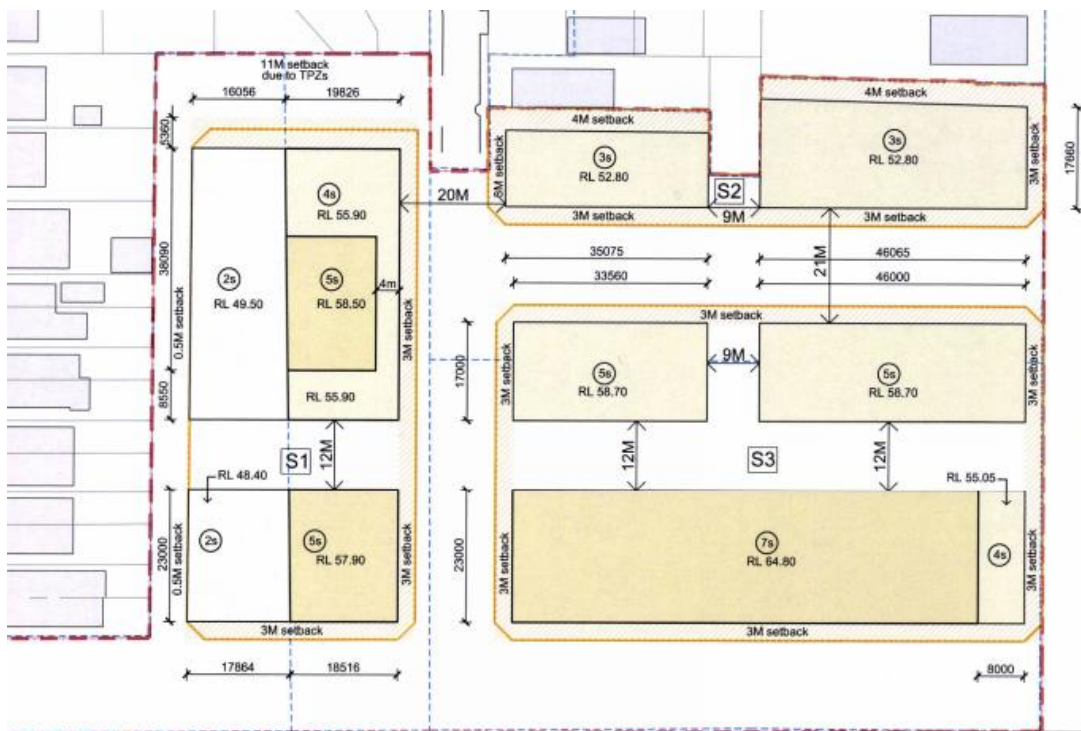


Figure 2: Approved building envelope plan, southern precinct containing development lots S1 (at left), S2 (at top) & S3 (at bottom)

The Proposed Development

The proposed development comprises development of the southern precinct site shown in figure 3 further below. The development comprises development of the lots S1, S2 and S3 and includes the following:

- Demolition of the existing buildings and structures;
- Excavation, remediation and other site preparation works;
- Construction of development in the following parts of the site:

- Lot S1 located at the western part of the southern precinct site:
 - Five storey residential flat building containing 17 dwellings, basement carparking, and
 - 9 three storey multi attached dwelling units with detached two storey building at the rear fronting a new laneway containing parking with habitable unit above;
- Lot S2 located at the northern end of the southern precinct:
 - A three storey residential flat building containing 16 dwellings, basement carparking, 24 vehicles and
 - 4 two storey multi-unit dwelling units and individual parking;
- Lot S3 (located at the southern end of the precinct:
 - Construction of a part 4/part7 storey residential flat building containing 112 dwellings, basement carparking for 134 spaces, and
 - 12 two storey multi dwelling units, with two car spaces for each;
- The proposal two new roads (ST3 & DV1), a new laneway (RL1) and an extension of Jane Street (ST4).
- Landscaping and associated works.

Amended plans

Amended plans were received by Council on 30 January 2018 including the following amendments:

Minor amendments have been made to the S1 Architectural Drawings as a result of design development, including:

- The overall apartment roof (not the plant) has increased in 'thickness' to accommodate the falls required for drainage. The top RL has increased from RL 56.69 to RL 57.07 (380mm). The RL of the soffit of the apartment roof has remained the same as have the architectural "kick-ups" in each elevation.
- The terrace house roof over the main house has changed slope direction. Previously the parapet was shown flat with an overall RL of 51.60. It now slopes back towards the central garden and has a top RL of 51.88 (+280mm). The roof over the garage/studio portion of the terrace house has increased from RL48.23 to RL48.50 (+270mm). Both these terrace house roof changes were a result of drainage problems and ceiling heights internally.
- The pitch of the metal roof on the townhouse has been raised from RL47.66 to RL47.96 (300mm).
- Full height ground floor glazing added to the south east apartment.
- Level 4 glazing line altered due to removal of planters.
- Northern terrace (T.10) fence moved to the north boundary.
- Concrete upturns on the apartment building shifted up 100mm to satisfy controls regarding 'climbability' on balconies.
- Basement wall thickness increased to suit secant pile walls.
- Basement planning updated to reflect current design development arrangement.

The following minor amendments have been made to the S2 Architectural Drawings as a result of design development:

- Minor increase to floor level RLs and overall building height RL to allow for 3.1m floor to floor heights.
- New opening in driveway to basement (visual connection).

- Lobby and basement stair reconfiguration.
- Entry ramp configuration.
- Terrace entry doors.
- Inclusion of DP notes on the plans.
- Addition of clothes drying areas.
- Addition of window notes to elevations.
- Addition of zinc roof and brick wall note.
- Addition of landscape planting notes to elevations and sections.
- Confirmation of balustrade height in the apartment (sections).
- Revised internal planning of terraces on both levels.

The following amendments have been made to the S3 Architectural Drawings in response to feedback provided by the Design Excellence Panel:

- Deletion of one unit. Increasing the undercroft height of the Young Street entrance to two storeys. Thus improving visual connection to the Big Stable Plaza.
- Expression of the Young Street entrance on the façade as a setback element similar to those on DV1.
- Deletion of one and realignment of the remaining townhouses. Introduction of two visual links through the townhouse massing from the communal out door space to ST3.
- The following amendments have been made to the S3 Architectural Drawings as a result of design development:
- Refinement of the façade with the use of regular openings, horizontal banding and curved corners.
- Modification of the ground floor/street interface to improve amenity, ensure privacy and improve access.
- Amendments to landscaping as needed to compliment and align with architectural refinement.
- Increased size of basement to ensure provision of storage and bicycle parking.
- Varied slab levels within the basement to decrease excavation.
- Minor updates to unit layouts.

Photomontages



S1.1: 5 storey RFB, 2 townhouses at left and 9 x three storey attached dwellings at right.



S1.2: 9 x Two storey attached dwellings with secondary dwellings at the rear over the garages.



S2.1: four attached dwellings



S2.2: three storey RFB containing 16 apartments



S3: S3.3 7 Storey Residential flat building as amended containing two stepped in pedestrian entries fronting new road DV1 accessible off Botany Street.



S3: S3.2 4 storey RFB containing two storey main entry off Young Street



S3: S3.1 two storey attached dwellings fronting new Road ST3 connection ST4 to the west and Young Street to the east.

Clause 4.6 Exception to Development Standard

Height of Buildings

Buildings S1.1, S1.2, S2.1, S2.2 and S3.1 comply with the maximum height of building development standard. Consistent with the approved Stage 1 concept master plan, Buildings S3.2 and S3.3 propose to exceed the maximum height of building development standard. Specifically, Buildings S3.2 and S3.3 exceed the 12 metre and 25 metre maximum height of building development standards in clause 4.3(2) of RLEP 2012 by 2.39m (19.9%) and 0.27m (1.08%) respectively.

The applicant has submitted a written request seeking to justify the contravention of the standard pursuant to Clause 4.6 of RLEP 2012. The heights of buildings and variations to the standards are summarized in the table below. Figure 3 shows the variation to the height of buildings standard for building S3.2.:

Development Lot	Building	Maximum LEP	Approved Stage 1	Proposed in Storeys	Proposed in Metres (top of roof)	Proposed in Metres (top of plant)
Lot S1	S1.1 (Apartment Building)	18m	RL 57.90	5 storeys	RL 57.89 (17.92m)	RL 57.89 (17.92m)
	S1.1 (Townhouses)	10m	RL 48.40	2 storeys	RL 48.30 (8.92m)	RL 48.30 (8.92m)
	S1.2 (Terraces)	10m – 18m	RL 55.90 – RL 58.50	3 storeys	RL 51.60 – RL 52.08 (10.96m- 11.44m)	RL 51.60 – RL 52.08 (10.96m- 11.44m)
Lot S2	S2.1 (Apartment building)	12m	RL 52.80	3 storeys	RL 52.80 (11.25m)	RL 52.80 (11.25m)
	S2.2 (Terraces)	12m	RL 52.80	2 storeys	RL 50.60 (9.65m)	RL 50.60 (9.65m)
Lot S3	S3.1	12m – 25m	RL 58.70	2 storeys	RL 48.60 – RL 49.20 (7.9 m-8.1m)	RL 48.60 – RL 49.20 (7.9 m-8.1m)
	S3.2 (Apartment building 4 - storey wing)	12m – 25m	RL 58.70	4 storeys	RL 54.70 (14.39m)	RL 58.70 (18.39m)
	S3.2 (Apartment building 7- storeys)	25m	RL 64.80	7 storeys	RL 64.10 (24.12m)	RL 65.25 (25.27m)

Table: Height of buildings within the southern precinct. Buildings S3.2 and S3.3 propose to exceed the maximum height of building development standard. Specifically, Buildings S3.2 and S3.3 exceed the 12 metre and 25 metre maximum height of building development standards by 2.39m and 0.27m respectively. (Reference: URBIS SEE September 2017).



Figure 30 – S3.2 Proposed DV1 Streetscape Elevation

Figure 3: orange shading indicates the variation to the height standard for building S3.2. (Reference Urbis SEE September 2017).

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 *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 Variation to Height of Buildings Development Standard

Clause 4.6 provides flexibility in the application of planning provisions by allowing the Consent Authority to approve a development application that does not comply with certain development standards, where it can be shown that flexibility in the particular circumstances of the case would achieve better outcomes for and from the development.

In determining whether to grant consent for development that contravenes a development standard Clause 4.6 requires that the Consent Authority consider a written request from the applicant, which demonstrates that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- There are sufficient environmental planning grounds to justify contravening the development standard.*

Furthermore, the Consent Authority must be satisfied that 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, and the concurrence of the Secretary has been obtained. In deciding whether to grant concurrence, subclause (5) requires that the Secretary consider:

- 1. Whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- 2. The public benefit of maintaining the development standard, and*
- 3. Any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The following addresses the local provisions of Clause 4.6 of the Randwick LEP 2012 together with principles of *Winten v North Sydney Council* as expanded by the five (5) part test established by *Wehbe V Pittwater* [2007] NSW LEC 827 and refined by the judgement of *Four2Five Pty Ltd v Ashfield Council* [2015] NSW LEC.

Reductions to approved building heights

The Newmarket Stage 1 concept master plan approved an alternative solution to that envisaged in the 'Indicative Concept Plan' contained within the Randwick Development Control Plan (DCP) 2013. The alternative solution achieved the overall vision, objectives, and development principles outlined in the Randwick DCP 2013, whilst providing a more appropriate transition in building bulk and scale, street layout, and public open space arrangement, as well as reduced impacts on adjoining properties.

To reduce the building bulk and scale at the centre of the Newmarket Green site, adjacent to the Struggetown Heritage Conservation Area and heritage listed Newmarket House and Big Stable building, the concept master plan proposed to exceed the maximum height of building development standard at the Barker Street interface and within Lot S3. These minor exceedances were complemented by significant reductions in the maximum height of buildings within the centre of the site at Lot N2, Lot E3 and Lot S1.

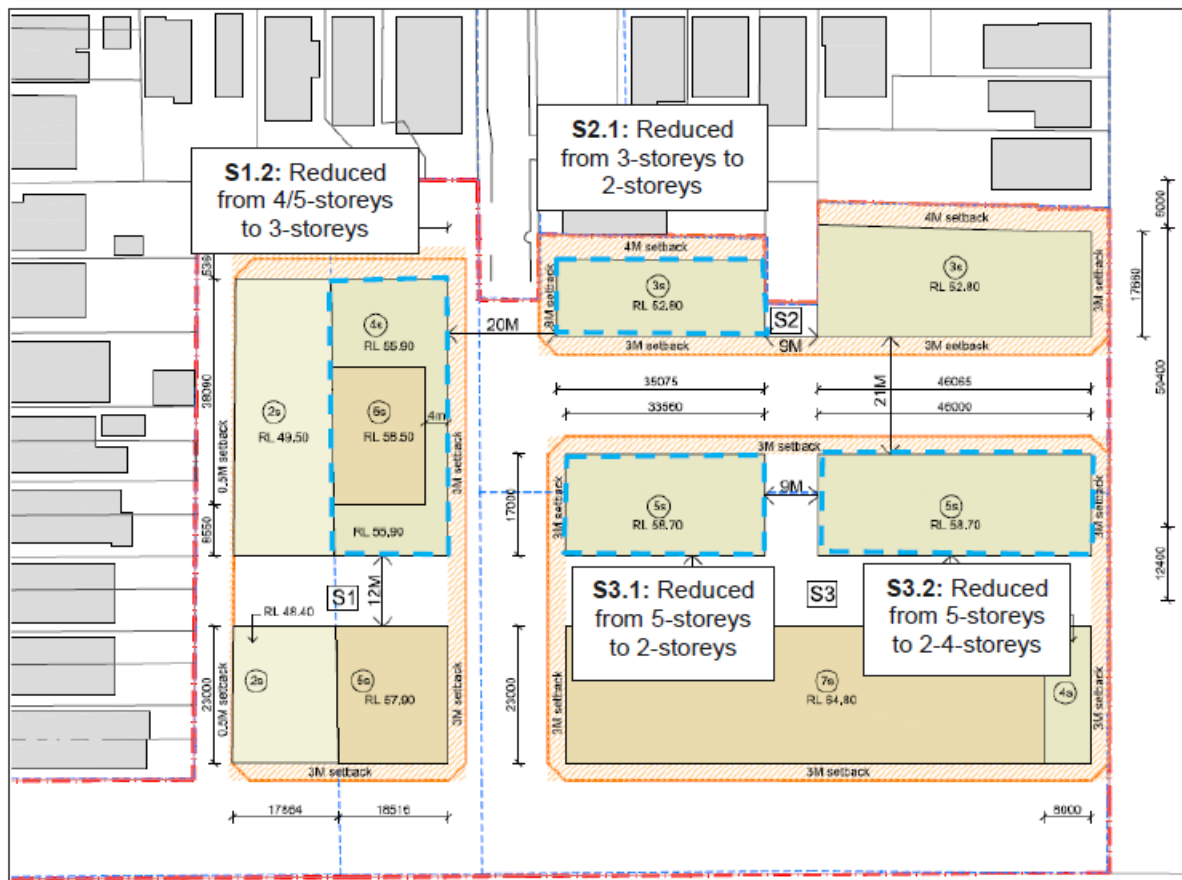
The subject DA proposes further reductions in building bulk height than that approved under the Stage 1 concept master plan. Specifically, the Stage 1 approval comprised a part 4, part 5-storey building envelope suitable for a residential flat building on the northern portion of Lot S1. The subject DA has replaced this part 4, part 5 storey building envelope with three-storey terraces. This represents a reduction in building bulk and height adjacent to the existing residential properties which front Botany Street. Further, this provides a three-storey scale to the adjacent Struggetown Heritage Conservation area.

Reductions in building bulk and height have also been provided on Lot S2 and Lot S3. Specifically, Building S2.1 was approved in the Stage 1 concept master plan as 3-storey townhouses. The subject DA has reduced this to 2-storey townhouses to reflect the existing 2-storey scale to the north.

Building S3.1 and S3.2 were approved in the Stage 1 concept master plan as two 5-storey residential flat buildings. The subject DA has reduced this to 2-storey townhouses in the north-west corner and a 4-storey residential flat building in the north-east corner. This represents a significant reduction in building bulk and height and provides a better transition in scale across the Precinct.

Figure 28 illustrates these significant reductions in building bulk and height from that approved under the Stage 1 Masterplan.

Figure 28 – Southern Precinct reduced building bulk and height



Proposed variation

As shown in Figure 29 and Figure 30 the 7-storey and 4-storey buildings within S3.2 sit within the approved building envelopes established under the Stage 1 concept master plan, with minor projections limited to roof top plant only (refer Section 6.2.1).

The north-east portion of Building S3.2 is 4-storeys. A small portion of the building envelope that projects into the 12m LEP height control exceeds the maximum height of building standard by 2.39 metres. The proposed variation to the maximum height of building development standard is the direct result of the proposed widening of DV1 to accommodate additional on-street visitor parking and an increased setback to Paine Reserve. In that regard, DV1 has been widened to 15.5m which has altered the extent and location of the development lot.

The remainder of Building S3.2 is 7-storeys. The building forms the prominent southern edge to the site and provides opportunities for passive surveillance of the neighbouring Paine Reserve. The building has been setback a minimum of 15.5m from Paine Reserve due to the widened proposed DV1. The building has been designed to limit overshadowing of Paine Reserve by breaking the building up into three components that are recessed and reduced in height by one storey. The building has also been designed to facilitate passive surveillance whilst limit overlooking of Rainbow Public School.

Building S3.3 exceeds the maximum height of building standard by 0.27m. The proposed variation is limited to roof top plant enclosure only. This is a direct result of it being converted to a more consolidated and energy efficient design than was not envisaged when setting the building heights under the Stage 1 concept master plan. The plant room is located in a centralised location and is setback from the building edges thus is not readily perceived from street level.

Figure 29 – S3.2 Young Street Streetscape Elevation

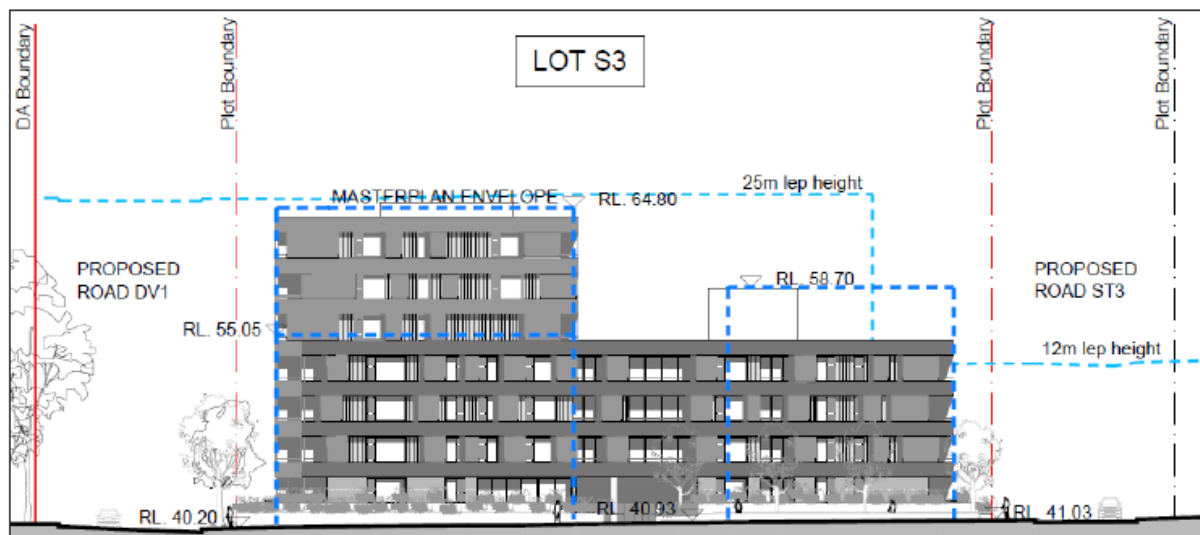
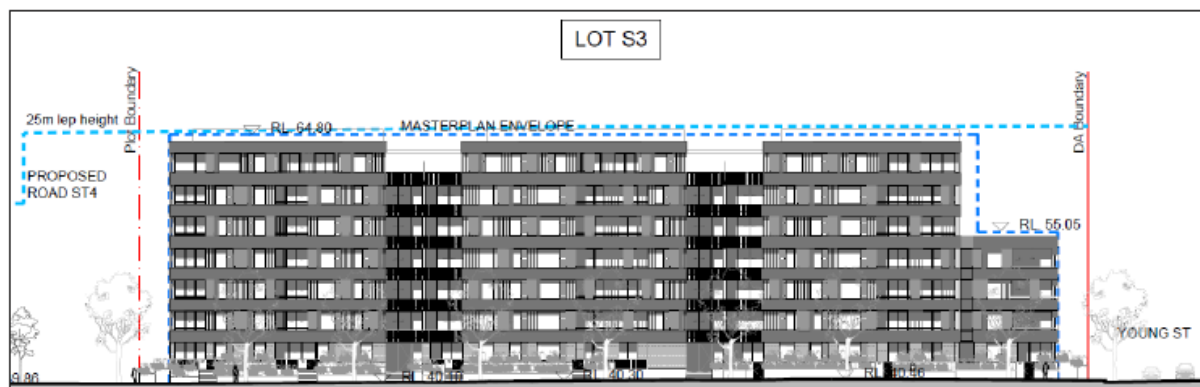


Figure 30 – S3.2 Proposed DV1 Streetscape Elevation



Consideration of Planning Particulars

Is the Planning Control in question a development standard?

The planning control in question is Clause 4.3 of the Randwick LEP 2012. The planning control as a numerical control is a development standard capable of being varied under the provisions of Clause 4.6 of the LEP.

What is the underlying objective of the Standard?

The objectives for the development standard provided at subclause 4.3(1) of the LEP are set out in the following Table 8 and an assessment of the proposal's consistency is provided. In summary, despite the numerical non-compliance with the development standard, the proposal is entirely consistent with the objectives of the maximum height of buildings development standard.

Table 8 – Consistency with the Height of Building objectives

Objective	Assessment
<i>(a) to ensure that the size and scale of development is compatible with the desired future character of the locality.</i>	<p>Chapter E5 of the Randwick DCP 2013 sets out the following vision for the 'Newmarket, Randwick' site: <i>Newmarket Green will be a high quality, socially cohesive and sustainable development that celebrates the unique landscape and built heritage of the site, in a manner that supports the growth of Randwick's Education and Health Specialised Centre, through the delivery of open space, diverse housing and complementary uses.</i> Further, the DCP states the following in relation to the 'Paine Reserve Precinct':</p> <ul style="list-style-type: none"> <i>The focus is to maximise opportunities for passive surveillance of Paine Reserve whilst maintaining a transition of building heights to adjacent lower scale residential areas to the north and west.</i> <i>Streets will be used to create view corridors, new access points to the site and to provide additional amenity to adjacent properties. A new street along the southern boundary will open up a new view corridor to the Big Stable from the west.</i> <i>Mid to high-rise buildings (up to 25 metres) will be located along the southern boundary to create a prominent southern edge to the site and opportunities for passive surveillance of the neighbouring park.</i> <i>Building heights along the Young Street frontage will be scaled down (to approximately 4 – 5 storeys) to create a balance to the Big Stable. Upper storeys to 25 metres will be set back from Young Street.</i> <i>Buildings along the western edge adjoining properties fronting Botany and Middle Streets will be a maximum of 10 metres so as to not dominate adjacent smaller scale dwellings.</i> <p>The proposed development has been designed to achieve the desired future character for the Paine Reserve Precinct. Specifically:</p> <ul style="list-style-type: none"> The proposed development facilitates passive surveillance of Paine Reserve through the inclusion of an eight-storey building along the southern boundary.

Objective	Assessment
	<ul style="list-style-type: none"> • The proposed street DV1 has been widened to open up views of the Big Stable building, provide additional on-street visitor parking, and increase the building setback to Paine Reserve. • A four-storey building is proposed on Young Street which reflects the scale of the adjacent Big Stable. • Buildings along the western edge within S1 have been scaled down to 2-3 storeys in keeping with the scale of existing properties along Botany Street.
<p><i>(b) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item</i></p>	<p>The proposed non-compliant buildings are located outside the curtilage of the heritage items and are contained in areas where the additional height will not adversely impact on the heritage values of specific items or conservation areas.</p> <p>A Heritage Impact Statement was prepared by OCP Architects and submitted with the Stage 1 DA. The statement confirmed that the concept master plan had been sympathetically designed to address the significance of the area. OCP Architects have reviewed the Architectural Drawings for the Southern Precinct and have confirmed that the proposal is consistent with the concept master plan and will not impact on the heritage significance of the adjoining conservation area (refer Appendix J).</p>
<p><i>(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.</i></p>	<p>The proposed variation was informed by a detailed site context analysis and design assessment. The proposal represents a site-specific design solution that has identified, on balance, the most appropriate development response across the wider Newmarket Green, Randwick precinct.</p> <p>The scale of the development proposed within the Southern Precinct is complementary to and compatible with the existing and planned future development in the vicinity of the site. Notably, the building height and scale proposed is less than that approved under the Stage 1 Masterplan.</p> <p>The proposed buildings have been designed to limit overshadowing and overlooking to adjacent properties, as well as Paine Reserve and Rainbow Public School. Adequate separate distances are provided which reduce the potential for overlooking and loss of privacy.</p> <p>Building elevations have been provided which demonstrate that the proposed increase in height does not result in an entire residential level. Rather the exceedances relate to a small portion of the northern setback of the 4-storey wing that protrudes into the 12m LEP height control and rooftop plant enclosure within the 7-storey element. Notably, the proposed 4-storey building has been reduced in height and scale compared to the 5-storey approved building envelope under the Stage 1 Masterplan. The plant enclosure on the 7-storey building is located in a centralised location and is setback from the building edges thus it is not readily perceived from the public domain.</p>

Is the proposal consistent with the objectives of the zone?

The proposed variation to the Height of Building development standard does not prevent the satisfaction of the R1 General Residential zone objectives. Specifically, the proposal addresses each of zone objectives as set out in the following Table 9.

Table 9 – Consistency with the objectives of the R1 General Residential zone

Objective	Assessment
<p><i>To provide for the housing needs of the community.</i></p> <p><i>To provide for a variety of housing types and densities.</i></p> <p><i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></p> <p><i>To allow the comprehensive redevelopment of land for primarily residential and open space purposes.</i></p> <p><i>To protect the amenity of residents.</i></p> <p><i>To encourage housing affordability.</i></p> <p><i>To enable small-scale business uses in existing commercial buildings.</i></p>	<p>The proposed variation to the maximum height of buildings development standard does not hinder the proposals ability to satisfy the objectives of the R1 General Residential zone. Specifically:</p> <ul style="list-style-type: none"> • The proposal incorporates a diverse range of housing types, sizes and densities including apartments, townhouses and terrace houses which offer a mix of one, two and three bedroom configurations. • The proposal will result in a predominantly residential development within a high quality open space setting. • The proposal will contribute to improving housing affordability in the area by increasing the supply of residential product and smaller lot terrace housing. • The proposal clearly delineates public and private domain and encourages a high amenity outcome for future residents, whilst not impacting on the current amenity enjoyed by neighbouring residents.

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

The proposal's consistency with the relevant aims of the Randwick LEP 2012 has been addressed in this Report. In summary, the proposal achieves a high level of consistency with the relevant controls of the Randwick LEP 2012. Specifically, the proposal is consistent with the floor space ratio, preservation of trees or vegetation, heritage conservation, and special provision Clauses. Furthermore, the proposal is consistent with the objectives of the B1 Neighbourhood Centre zone.

The objects set down in section 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979* are summarised as follows:

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

The development is consistent with the objects of the Act, in respect to the following:

- The proposal is consistent with the significance of development envisaged for the Newmarket Green, Randwick precinct. The variation to the building height is proposed to achieve a better urban design outcome for the site and wider Newmarket Green, Randwick precinct when compared to a compliant scheme.
- The site is located within an established urban environment and is zoned for the intended use. The redevelopment of the site for higher density residential and neighbourhood scale retail uses contributes to urban consolidation.
- The delivery of new housing and jobs within an established urban environment, located near public transport options, without significant or unreasonable environmental impact is considered to be both orderly and economic use of urban land.

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

Compliance with the height of building development standard is considered unreasonable and unnecessary in the circumstance of the application based on the following:

- The proposal is consistent with the objectives of the development standard as provided in clause 4.3 of the LEP.
- The proposed variation to the maximum height of buildings development standard does not hinder the proposals ability to satisfy the objectives of the R1 General Residential zone.
- The proposal includes additional building height above that permitted in carefully considered appropriate locations across the site. This additional building height facilitates a reduction in building height at other more sensitive locations throughout the Newmarket, Randwick precinct.
- The proposed variation is a deliberate strategy to bring about a superior urban design and residential amenity outcome for the wider Newmarket Green, Randwick precinct. This includes a greater level of sensitivity to the heritage items of the site and surrounds and an improved public realm contribution.
- The proposed non-compliance is limited to a slight projection of the 4-storey apartment building into the 12m LEP height control and plant enclosure of the 7-storey apartment building. The 4-storey apartment building has been reduced by 1-storey than that approved under the Stage 1 Master Plan. The non-compliance associated with the 7-storey apartment building is limited to rooftop plant enclosure and does not result in any discernible environmental impacts.
- The proposal is fully compliant with the floor space ratio controls that apply to the site.
- The proposal is compatible with the desired future character of the locality and will not detract from the surrounding Struggletown heritage conservation area or heritage items, including the Big Stable and Newmarket House.
- The potential impacts of the development, including the building height variation proposed, have been documented and detailed in this Report. The assessment confirms the proposal will not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

Taking into account the above, the particular circumstances of this application warrant a variation of the development standard to facilitate a superior outcome than that which would result from a compliant scheme. As such it is considered that a complying development is neither reasonable nor necessary in circumstances of the case.

Is the development standard a performance based control?

No. The development standard is not a performance based control.

Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

There are sufficient environmental planning grounds to justify contravening the height of building development standard in this instance. These include:

- The additional building height on the 4-storey and 7-storey buildings within S3.2 is minor and is offset by the lower form of the buildings within Precincts S1, E3 and N2 than that envisaged through the LEP and DCP controls.
- The 4-storey building is lower than the 5-storey building height approved under the Stage 1 Masterplan. The proposed non-compliance is a direct result of widening DV1 to provide to accommodate additional on-street visitor parking and an increased setback to Paine Reserve. In this regard, the building has shifted north and slightly projects into the 12m building height development standard. This represents a minor portion of the building. The remainder of the 4-storey building is approximately 6.6m below the 25m maximum building height development standard.
- The 7-storey building height non-compliance is limited to rooftop plant enclosure. The plant enclosure projects some 0.27m into the maximum 25m building height development standard. This minor non-compliance is setback from the building edges and therefore will not be discernible from the public domain.
- The scale of development is considered appropriate given the significance of the site as supporting the continued growth of the Randwick Specialised Health and Education Precinct.
- The variation does not result in unreasonable adverse environmental (social, economic or biophysical) impacts. Specifically, the 7-storey building has been setback a minimum of 15.5m from Paine Reserve due to the widened proposed DV1. The building has been designed to limit overshadowing of Paine Reserve through building breaks and articulation. The building has also been designed to facilitate passive surveillance whilst limit overlooking of Rainbow Public School. In summary, there are no significant solar access impacts on neighbouring properties or the public domain as a result of the rooftop plant enclosure height variation.
- Compliance in this circumstance would result in an inferior outcome, with a development that is less responsive to the heritage characteristics of the surrounding Conservation Area. Further, compliance has the potential to erode the heritage values of the conservation area and diminish the quality of the public realm provided within the wider precinct, thereby impacting on the amenity provided for future occupants of the area.
- The variation does not diminish the development potential of adjacent land.

Is the objection well founded?

The objection is considered to be well founded given the motivation of the variation is to create a preferable urban design outcome for the wider Newmarket Green, Randwick precinct.

The proposed development does not result in any unreasonable or significant adverse environmental (social, economic or biophysical) impacts. In particular, the variation does not diminish the redevelopment potential or amenity of any adjoining land.

Compliance in this circumstance would result in an inferior outcome, with a development that is less responsive to the heritage characteristics of the surrounding Conservation Area. Further, compliance has the potential to diminish the quality of the public realm provided within the wider precinct, thereby impacting on the amenity provided for future occupants of the area.

It is our view that to force compliance in the circumstance would be antipathetic to the inherent flexibility provided by clause 4.6, thereby hindering the attainment of its objectives.

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

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

Is there a public benefit of maintaining the planning control standard?

The proposed development is not contrary to the public interest and accordingly there can be no quantifiable or perceived public benefit in maintaining the standard.

Conclusion

Considering the significance of the site, its context, and the vision for the locality, strict compliance with the numerical standard in this instance is both unreasonable and unnecessary for the following reasons:

- As described, the built form has been developed in response to site specific opportunities and constraints. The concept master plan envisaged a precinct which achieves design excellence through built form and place making. This has been achieved through use of building scale and arrangement of the public realm as a key feature of the site.
- The building heights within the approved Stage 1 Masterplan respond well to existing and future proposed adjoining properties, in particular those within the 'Struggletown' heritage conservation area, Newmarket House and the Big Stable Building, as well as the adjacent Neuroscience Research Precinct. The future desired character of the wider Newmarket Green, Randwick precinct is achieved through an enhanced pedestrian experience, social cohesion and conservation of the built heritage of the precinct.
- The proposed building heights under this DA are generally consistent with the approved Stage 1 Masterplan. Specifically, the proposed 4-storey wing is 1-storey below the approved 5-storey building envelope and the 7-storey building is entirely consistent with the approved envelope. The protrusion of the rooftop plant enclosure is minor and is a direct result of it being converted to a more consolidated and energy efficient design than was envisaged when setting the building heights under the Stage 1 Masterplan.
- The additional height will not result in any detrimental amenity impacts (overshadowing, views or privacy) to surrounding development when compared to a complying design. Nor will the extent of the non-compliance result in any adverse visual impact on the locality.
- The proposed built form and height is consistent with the desired future character of Newmarket, as envisaged by the Randwick DCP 2013. Furthermore, the proposal seeks to utilise the flexibility afforded to the Consent Authority by Clause 1.6 of the Randwick DCP 2013 by presenting a reasonable alternative solution that provides an improved public benefit and achieves greater design excellence.
- The non-compliance will not hinder the development's ability to satisfy the objectives of the R1 General Residential zone.

Based on the reasons outlined, it is concluded the request is well founded and the particular circumstances of the case warrant flexibility in the application of the maximum height of building development standard.

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?

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 of S3.2 will result in a breach of the height of buildings development standard at its highest point by 2.39m. However, the proposed buildings will remain within the envelope approved pursuant to the Concept Plan. The variation does not result in any adverse amenity impacts and the size and scale of the building will be consistent with the desired future character that is anticipated by the concept plan approval. The exceedance in height occurs as a result of the increase in width of the southern road DV1 and the floor plans show no increase in the depth of Lot S3 but rather a shift to the north. The built form outcome will be

one that is generally consistent with the objectives of the height standard as the scale and presence of the development will not be readily apparent in the context of the design scheme given the development presents uniformly across the eastern and northern elevation of the site.

- The proposed increase plant height of building S3.3 remains consistent with the 7 storeys approved under the concept plan with the only protrusion above the 25m height standard being enclosed plant which is setback from the street frontage. The setback provided will ensure that the protrusion is basically unperceivable when viewed from the surrounding area.

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 proposed built form is lower in some parts, and achieves a better planning outcome. In particular the breach to the height standard is located at the northern end of Lot S3 and separated from the nearest heritage item identified as The Big Stable by some 51m. In a similar vein, the increased width of the southern road DV1 has meant 'The Big Stable' will be more viewable when travelling from the western access road off Botany Street (DV1).
- The majority of the proposed development when compared with the concept plan seeks to scale down building S3.2 from a five storey RFB down to a predominately four storey RFB excluding roof shading structures setback from the outer building lines. This makes the building as a whole more compatible with and sympathetic to the pattern of development and heritage item in close proximity to the site as well as the neighbouring area. The current DA predominately reduces the scale of built forms when compared with the concept plan achieving a better outcome in relation to heritage conservation.

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 associated with the protrusions and the development as a whole will not result in any adverse visual privacy impacts to the immediate neighbouring dwellings subject to conditions. The protrusions above the maximum height of buildings standard are located a considerable distance from the neighbouring properties and well beyond the separation distances provided for in the Apartment Design Guidelines.
- The extent of the solar access impacts to the neighbouring properties are very minor when compared to a compliant height and occur during the very late afternoon period during mid-winter. These very minor additional impacts on the neighbouring properties and the public domain are acceptable.
- The additional building height does not contribute to any adverse view loss impacts to any neighbouring buildings as the building volumes will be situated within the prescribed building zones and verified by the floor plans in Lot S3, consistent with the Concept Plan approval.

Consistency with the objectives of the zone:

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

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

The proposed development provides a variety of housing types and densities including attached dwellings, town houses and residential flat buildings of various sizes and configurations. The variation to the standard does not alter this outcome.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

A communal garden is provided for use by the RFB located in Lot S2.

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

The proposed development of Lots S1, S2 & S3 continues on the comprehensive redevelopment of the Newmarket site primarily for residential purposes. Sufficient open space is provided for each site.

- *To protect the amenity of residents.*

The proposal will provide for appropriately sized and scaled buildings that minimise the impacts to nearby residents. The reduction in scale of buildings adjoining the low density residential zone namely along Botany Street, Jane Street and Young Street including the increased separation from the southern boundary adjoining Paine Reserve and Rainbow Public School will minimise impacts of the development as a whole. The reduction of building bulk achieves a sound planning approach by transitioning more sedately down to lower building forms close to the properties in the low density residential zone, the Struggletown conservation area to the north, the heritage item known as the Big Stable and the open spaces to the south. See also discussion of objective point c for height of buildings standard.

- *To encourage housing affordability.*

The wider development is subject of a planning agreement providing affordable housing at a rate of 1.5%. The subject application provides secondary dwellings at the rear of the attached dwellings in Lot S1 which are permitted under the State Environmental Planning Policy – Affordable Rental Housing 2009.

- *To enable small-scale business uses in existing commercial buildings.*

The proposed development does not contain retail or commercial uses. The proposed residential development will generate demand for services and employment opportunities thereby contributing to the ongoing economic viability of the R1 zone and the neighbouring zones. The design of the residential components has been well integrated with the surrounding residential zones.

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

The proposal has been carefully 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.**

Comments:

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.

Notification/ Advertising

The subject development was advertised/notified to surrounding landowners for a period of 14 days in accordance with Council's DCP. As a result 4 submissions from the following properties were received.

- 155 Botany Street, Kingsford
- 90-98E Rainbow Street
- Resident in Randwick (PO BOX 137, Kensington)
- 4 Jane Street

The issues raised in the submissions are addressed below:

Issues	Comments
Inappropriate increase in density, size and scale of buildings	The proposed density is consistent with the Concept Plan approval and provides for buildings of a size and scale that are in some instances smaller than that which was approved in the Concept Plan which to an extent lessens the density impacts.
Adverse impact of the increased demand on the parking in area with the addition of light rail.	The increased demand that would be placed on existing infrastructure by the proposed development was a matter for consideration at the rezoning stage and was deemed not to be an impediment to the increased density on the site. Since the rezoning, a light rail system will be provided close to the site, there has been traffic signalisation at the intersection of Barker & Botany streets and an expansion of Prince of Wales hospital has just been announced. Consent was also granted recently for the expansion of Rainbow St public school. As part of the Voluntary

Issues	Comments
	Planning Agreement the Applicant will also dedicate the Big Stable building to Council for the purposes of a community facility and will provide a public park. Council's S94A plan also continues to apply and the Applicant will be required to contribute towards local infrastructure.
Uncertainty of the traffic impact from light rail infrastructure in the vicinity and adverse impact of the increased parking demand in area with the addition of light rail. Traffic impact analysis grossly underestimates the current and perceived road capacity.	As part of the consideration of the Concept Plan, Council engaged a traffic expert that assessed the proposal in the context of the changes to the road network as a result of the light rail. Council's traffic expert did not object to the overall traffic generation of the development as it was consistent with that envisaged by the rezoning of the site at its increased density. However, it was identified that there was a need for a study about traffic calming in Middle and Meeks St and that forms part of the Concept approval. The current application is accompanied by a traffic and parking plan and the subject of review by Council's Development Engineer.
Insufficient information on S1.3 relating to privacy loss.	The proposed development on S1.3 comprises a 7 storey building and part 4 storey building. The distance to the nearest residential and or school is sufficient for the purposes of privacy protection.
Inconsistencies in the document in terms of building heights.	The submitted documentation is generally consistent in relation to building heights.
Insufficient setback from the rear of properties fronting Botany Street.	The development nearest the rear of dwellings fronting Botany Street are two storey scales which is a low density scale of residential development. The separation provided is generally consistent with the separation that would be required for low density residential development. It is further noted that the envelope allowed for a greater height for the developments in S1, and S3 than that which is sought under this application.
Does not satisfy the objectives of the RLEP2012	The proposal is generally consistent with the aims of the plan. The proposed uses and built form will provide for the housing and economic needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.
Unsympathetic to the heritage listed buildings	The proposed development will ensure larger a sympathetic relationship with the items of environmental heritage that exist on and around the site
The high density development adjacent to a school boundary has the potential to	Building S3.3 being the 7 storey RFB is around 22m from the boundary shared

Issues	Comments
<p>impact on the school security and privacy and ensure that façade design, site layout and appropriate conditions of consent that protects the school from any excessive overshadowing, visual views both into and from the school and maintain privacy.</p>	<p>with the school. This is considered to be sufficient separation from the school grounds for the purposes of privacy protection. It is not anticipated that the security of the school or the children will be unreasonably impacted by the proposed development subject to site management conditions being adhered to and appropriate fencing being installed as part of the development.</p>
<p>Construction impacts should be minimised by ensuring ongoing notification of key construction activities.</p>	<p>Appropriate conditions are included to ensure the site is appropriately managed during remediation, demolition and construction. The PCA appointed to the project is required to adhere to notification requirements under the EP&A Regulations. A condition is also included requiring notification of the school prior to works that have the potential to adversely impact the amenity of the school.</p>
<p>Increased traffic has the potential to adverse impact the school gate at the rear of the premises to Young Street. The design of Young street should incorporate sufficient width for the expected level of vehicle use, and make provision for dedicated pedestrian footpath and crossing for safe access to the school. A construction Traffic plan and traffic safety plan shall be developed in consultation with the school and the Roads and Maritime Services.</p>	<p>Traffic management has been assessed as part of the wider Newmarket Development. The traffic associated with the proposed development including construction, and post development is the subject of appropriate conditions of consent that will seek to minimise adverse impacts on the neighbouring property and the wider road network. A construction traffic management plan is required to be submitted to the Integrated Traffic committee for review.</p>
<p>As a resident of 4 Jane Street I wish to object to the development on the basis of the following:</p> <p>The height of the buildings opposite will obstruct views.</p> <p>The buildings will provide a heat trap and increase temperatures in the neighbourhood and restrict any sea breezes.</p>	<p>The proposed southern precinct development is not opposite No. 4 Jane Street; Buildings in the northern precinct are located opposite the neighbour's property and as yet no staged DA has been submitted for this part of the site. However it is noted that the concept plan has approved envelopes of three, and part seven part eight storey buildings.</p> <p>Whilst development of hard surfaces will invariably increase the heat effect, the proposed development contains suitable areas of landscaping having regard to the relevant design guidelines. It is important to also note that where the proposed development directly adjoin neighbouring residential properties, the development contains comprehensive landscaping along these boundaries.</p>

Issues	Comments
	The development contains sufficient landscaping. The development is located east of 4 Jane Street and whilst there may well be some impact on sea breezes it is considered that access to ventilation to the objectors property will not be unduly impacted by the proposed development.
The noise levels associated with retail uses will have an adverse impact.	The southern precinct does not contain any retail uses. Notwithstanding, mechanical plant and equipment are required to adhere to relevant noise criteria.
On street parking will be further restricted and traffic congestion will be increased as a large percentage of units do not have parking;	The southern precinct is able to accommodate sufficient parking on-site.
Traffic along Jane Street will be increased exponentially if it becomes a through road.	Traffic along Jane Street will increase as part of the proposed development. This was a matter raised as part of the original concept plan which was subsequently approved subject to conditions. Each subsequent DA also addresses traffic conditions associated with the proposed development inclusive of appropriate conditions of consent.
Increased dog excrement and litter from works.	Generally laws and regulations governing litter and picking up after pets in the public domain are already in place. In relation to litter, certain conditions can be included to ensure that waste management within the site and in close proximity to the site are reasonably managed.
Traffic measures instigated at Barker, Botany and Arthur Street have made traffic flow worse and roundabouts should be installed.	Traffic has and will be an ongoing consideration of Council whether it is related to the proposed development or ongoing management of safety and flow.

Relevant Environmental Planning Instruments

The following statutory Environmental Planning Instruments apply in the assessment of the proposed development:

- Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy– Affordable Rental Housing 2009
- State Environmental Planning Policy (Building Sustainability Index BASIX) 2004
- Randwick Local Environmental Plan 2012

Environmental Planning and Assessment Act

- **Consistency of the subject DA with the concept plan approval**

Relevant to the proposal is the provision of Section 83D, and schedule 4A of the EP&A Act 1979.

Section 83D relates to status of concept development applications and consents namely whether the subject DA is inconsistent with the Concept approval and states as follows:

83D Status of concept development applications and consents

(2) While any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site.

With regard to the consistency of the proposal to Section 83D of the EPA Act 1979, the applicant has provided the following submission:

A diagram of the differences in the envelope as approved and now proposed is set out below followed by an indicative plan of Lot S3. The differences can be summarised as follows:

(a) Southern building fronting DV1:

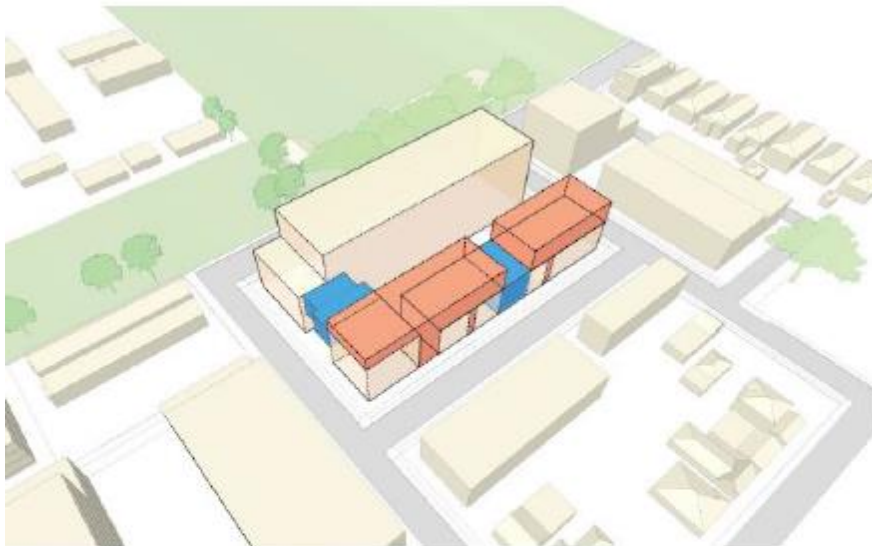
- (i) Articulation of the northern and southern facades as required by condition 8, building wholly within approved envelope;*

(b) Northern building fronting ST3:

- (i) Reduced by 3 storeys (now 2 not 5 storeys);*
- (ii) Movement of break in building further to the east;*
- (iii) 2 further breaks in building added for greater articulation wholly within the approved envelope;*

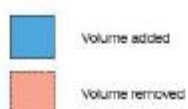
(c) Eastern building on corner of ST3 and Young Street:

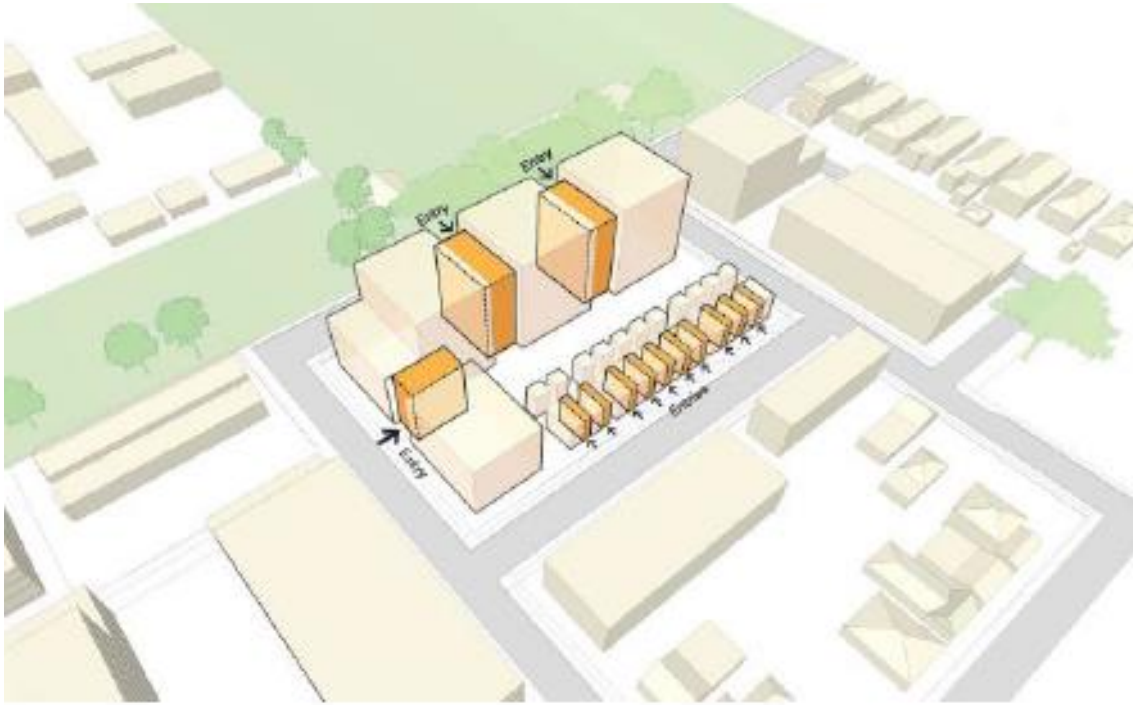
- (i) Some massing from the northern building has been moved to the eastern building,*
- (ii) proposed 4 storeys instead of 5 wholly within the approved envelope;*
- (iii) Link proposed between the eastern and southern building at levels 2 and 3 and setback from Young Street, access and break between the buildings retained for first two storeys.*



3.11 COMPARISON WITH APPROVED ENVELOPES

The massing moves result in a different building profile than that envisaged by the masterplan approval. While the eastern building break has been filled in for levels 1-3, and the northern break has been shifted eastwards, the overall volume of building has been significantly reduced by lowering the northern buildings from five to two storeys.





Proposed envelope scheme including visual links through the attached dwellings and setbacks in the 7 storey flat building

2. Legislative framework and judicial consideration of consistent/inconsistent

2.1 At the time that the Masterplan Consent was granted, section 83D(2) of the EPA Act provided:

(2) *While any consent granted on the determination of a staged development application for a site remains in force, the determination of any further development application in respect of that site **cannot be inconsistent with that consent.*** [our emphasis]

2.2 The provision was amended by *Environmental Planning and Assessment Amendment (Staged Development Applications) Act 2017 (amending Act)* and now reads:

(2) *While any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of that site **cannot be inconsistent with the consent for the concept proposals** for the development of the site.* [our emphasis]

2.3 The savings provision in the amending Act provides that a consent granted to a staged development application under Division 2A of Part 4 of this Act (as in force before the substitution of that Division by the amending Act) is, on and from that substitution, taken to be a consent granted to a concept development application under that Division (as so substituted), and has effect accordingly. That is, the Masterplan Consent is taken to be consent granted to a concept DA and the current s 83D(2) applies.

2.4 There was judicial consideration of the staged development process in *Bay Simmer Investments Pty Ltd v State of New South Wales* [2017] NSWCA 135 at [16] per Basten JA:

16. *Section 83D(2) goes further, dealing with inconsistency between a consent with respect to a staged development application and the determination of subsequent development applications. This may be called the paramount consent principle. However, while such provisions seek to resolve cases of inconsistency, they do not assist in identifying what constitutes inconsistency in a particular situation.* [our emphasis]

2.5 We are not aware of any case law where the Court has directly considered whether a subsequent development application is inconsistent with an approved staged/concept plan.

2.6 The case of *Aldi Foods Pty Limited v Holroyd City Council* [2004] NSWLEC 253 at [43] considered what matters the Court should have regard to in assessing a proposal, which is a permissible use but which is antipathetic to the urban structure and built form envisaged in a masterplan. The masterplan the subject of that appeal was a long term precinct plan prepared by Council in a draft DCP as opposed to a masterplan consent so isn't directly relevant to this proposal. That case involved an application for a single storey supermarket where Council's masterplan envisaged an 8 storey building which Talbot J noted at [42] *"is about as different from a single-storey supermarket as it is possible to be"*. Talbot J found the proposal to be inconsistent with the masterplan [51].

- 2.7 In *Lesnewski v Mosman Municipal Council & Anor* [2004] NSWLEC 99, Pain J discussed the meaning of "not inconsistent" in the context of construction certificate plans being "not inconsistent" with DA plans at [34]:

34. *It is difficult to precisely qualify the meaning of "inconsistent". Each case will need to be decided on its own facts. A single minor difference between the construction certificate plans and the development consent plans is likely to be acceptable. Where there are a number of minor differences then the collective impact of these differences will need to be assessed to determine whether they combine to result in unacceptable inconsistency. A major difference is likely to give rise to an inconsistency. Whether a difference is major or minor and whether, in the case of a number of minor differences, the cumulative effect is a major difference will depend on the circumstances. Consideration of whether or not a s 96 modification is warranted is not of great assistance, as that threshold addresses a different statutory context. It may be that there will be a finding of inconsistency under cl 145(1)(a) before the necessity for a s 96 modification arises. I consider that provided the development consent and construction certificate plans are largely similar so that they depict substantially the same development they are not inconsistent.*[our emphasis]

- 2.8 Whilst the above passage concerned a different provision to section 83D of the EPA Act, it does provide some guidance in the present scenario. A quantitative and qualitative assessment is required. Clearly the term "cannot be inconsistent with" does not require the development proposed in a development application to be the same as that in the masterplan consent.

3. Discussion

- 3.1 The question of whether the proposed development of Lot S3 is not inconsistent with the Masterplan Consent in accordance of s 83D(2) of the EPA Act is one of fact and degree.
- 3.2 The Masterplan Consent approved envelopes for buildings to be developed in stages subject to conditions including those relating to design changes and considerations to be addressed in subsequent development applications. The purpose of the building envelopes was in the main to determine maximum building heights setbacks and FSR on the whole of the Newmarket Randwick site.
- 3.3 The differences between the current proposal and Masterplan Consent envelope have been set out above. In our view the articulation of buildings within the envelopes or a reduced building size/shape within the envelope are not changes that would be inconsistent with the Masterplan Consent. The approved envelopes are in a sense boxes that may be filled subject to design and merit of a final building form. Buildings that are smaller or articulated are not an issue.
- 3.4 The greater articulation of built form in the southern building is in response to condition 8 and is wholly within the Masterplan Consent envelope.

- 3.5 The reduction of 3 storeys in the Northern building results in greater solar access to the southern building and an altogether lesser environmental (solar, visual) impact on Lot S2 across ST3 than the construction of a development that utilised the full extent of the building envelopes in the Masterplan Consent. Greater articulation has been provided through the gaps created between the building;
- 3.6 The additional building link between the eastern and southern buildings, with the access and break between the buildings retained for first two storeys is outside the building envelope it is minor in mass and impact and not inconsistent with Masterplan Consent. Some massing from the northern building has been moved to the eastern building, with 4 storeys proposed instead of 5 and while this is different as there is proposed building mass where none was provided before in terms of fact and degree the change is minor .
- 3.7 There are few differences between the Masterplan Consent envelope for S3 and what is currently proposed for Lot S3. The differences are a result of a detailed and considered design response to the development of Lot S3, having regard to surrounding use of The Big Stable and Paine Reserve which is specifically contemplated in the Masterplan Consent (see conditions 8 and 12). The S3 development proposes a lesser floor space ratio than that approved in the Masterplan Consent.

4. Conclusion

- 4.1 In our view the proposed Stage 2 development application for Lot S3 is not inconsistent with the Masterplan Consent. The number and extent of changes along with the impact of those changes does not in our opinion result in a development that is inconsistent with that approved by the Masterplan Consent.
- 4.2 In our view, the S3 development application as proposed is not inconsistent with the development of Lot S3 approved by the Masterplan Consent and satisfies section 83D(2) of the EPA Act.

Council concurs with this view and considers that the current application satisfies the provisions of Section 83D (2) of the EPA Act 1979.

The proposed development whilst containing variants to the concept plan approval are considered to be consistent with the concept plan approval on the basis of degree, whereby the proposed development predominately re-distributes floor area within the development allotments S1, S2 and S3.

In accordance with The Land and Environment Court in *Commonwealth of Australia v Randwick City Council* which considered Clause 40A of the LEP in detail and specifically the determining factor as to whether 'development is not inconsistent with the Master Plan'. The court held that a Master plan is a planning tool (similar to concept plan approvals for staged developments), which means that its provisions are not to be regarded as inflexible and mandatory. The underlying purpose and principles of a Master Plan is to be respected and the implementation of a development is not required to exactly replicate the terms of the Master Plan. The Court's decision in *Commonwealth of Australia v Randwick City Council* relies on a decision of the Court of Appeal in *Coffs Harbour Environment Centre Inc. v Coffs Harbour City Council*. In this case, the Court of Appeal was considering whether a development was "inconsistent with" objectives of an environmental planning instrument. The Court of Appeal held that a development will be generally inconsistent with an objective if it is antipathetic development or within the natural meaning 'having a natural antipathy, contrariety or constitutional aversion' [*Schaffer Corp Limited v Hawkesbury Council*].

In order to establish whether or not something is “consistent with” or “not inconsistent with” with a particular provision, the Court has adopted a principle that the requirement of consistency will be satisfied if the development is “not antipathetic, nor incompatible nor inconsistent with” the particular provisions. Such a determination does not require a positive finding of compatibility in order for the particular provision to be satisfied. Applying this same reasoning to Clause 83D of the Act a similar mechanism to the superseded Clause 40A of the RLEP, development will be inconsistent with the concept approval if it is antipathetic to the development approved in the concept plan. The answer as to consistency will generally turn on the facts of each particular DA which is a question of *fact and degree*.

In this instance, the proposed development maintains the mixture of medium density residential development within the southern precinct which is a fact and does not challenge consistency with the approved concept plan. In terms of degree, with particular regard to the distribution of floor area, the degree to which the newer elements such as the four storey connection between the approved 7 storey flat building along the southern part of Lot S3 differs from the approved five storey RFB at the opposite north eastern corner of Lot S3 is relatively minor particularly given that two levels below this connection remain open. The other elements of the proposal that vary from the concept plan approval, include the 9 attached dwellings sought within the northern part of Lot S1 which differs from the approved part two part five storey envelope approved in the Concept plan as well as the proposed 11 attached dwellings in the northern part of lot S3 which differs from the approved five storey envelope in the Concept plan. These elements remain within the envelopes approved as part of the development and as noted earlier they retain their classification as medium density development.

Therefore in terms of fact and degree, the proposed development in this DA will not be antipathetic to the concept plan approval and it is considered that in terms of fact and degree the DA still provides for medium scale development that is consistent with the objectives of the zone. It is considered that the proposed DA is the most appropriate mechanism for assessing the particulars of the DA which is required under this division of the Act.

Schedule 4A

Schedule 4A identifies development where the Sydney Planning Panel is the consent authority. In this instance, the proposed development has a capital investment value (CIV) of in excess of \$20 million. Clause 3 in Schedule 4A provides that general development with a CIV of more than \$20 million is to be determined by the relevant Planning Panel or Sydney Central Planning Panel, pursuant to the provisions of Section 23G (4) of the EP&A Act 1979.

Accordingly, the proposal is submitted to the Panel for its determination of the DA.

Technical advice: Internal and External

Design Excellence Panel (DEP) – SEPP 65 Design Quality of Residential Apartment Development

Council’s Design Excellence Panel (DEP) reviewed the proposal on two occasions (dates: October 2017 and November 2017) and provided the following comments:

SEPP 65 DESIGN REVIEW PANEL COMMENTS AND RECOMMENDATIONS:

October 2017:

INTRODUCTION

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

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

Your attention is drawn to the following;

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

Both documents are available from the NSW Department of Planning.

Note:

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

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

PANEL COMMENTS

This is a Development Application review meeting. The proposal has come before the Panel in June 2017 and the Panel made a number of comments most of which the proponent has successfully addressed. Several issues need further consideration.

Principle 1: Context and Neighbourhood Context

The site is located within the Newmarket Green development, in a transitional area between the medical precinct to the north of Barker Street and a dense, low rise residential area to the south. The proposal is one component and stage within a larger precinct development, comprising 14 residential buildings ranging in height from two to seven stories. Immediately to the east of the Newmarket Green site the Randwick Girls High School and Randwick Boys High School are located. The Rainbow Street Public School and Paine Reserve are located immediately to the south and southwest of the site.

The historically significant area of Struggle Town is just to the north of the site S3 and contains a number of structures with physical or social significance to the early settlement of Randwick. Immediately adjacent to the development site, along the opposite side of Young Street, are two significant heritage items that formed part of the original equestrian complex on the site: Newmarket House and the Big Stable Building.

These items, with the original Sales Ring and parade areas, are important parts of the public domain experience and heritage re-use of the site, and form an axis extending from Barker Street through to the south end of the development site.

Built form typology in the surroundings ranges from one-storey single family residences to residential three-level apartment buildings up to the 6 level Neuroscience Research Australia building located on Barker Street.

The site S3 faces the Paine Reserve and is immediately adjacent to the Big Stable across Young Street. It essentially occupies a full block between Young and Jane Streets.

Principle 2: Scale and Built Form

The scheme varies from the bulk and height indicated in the Newmarket DCP. The masterplan configuration has been modified to provide for a more continuous built form on the east side of the site. Terrace houses have been proposed along the north side of the site and the pedestrian link between the courtyard space and Street ST3 has been replaced by a car park ramp and no longer aligns the gap along the north side of Street ST3. Massing along the Paine Reserve has been articulated into several volumes to break down the scale of the park front block facing the open space.

These changes have been undertaken to allow greater sunlight penetration into the common open space in the centre of the site, rationalise the step in the built form facing the Big Stable and modulate the length of the park front block against the open space. While these changes provide some good outcomes in themselves, several attributes of the master plan are weakened. The Panel previously commented on the need to strengthen the relationship between the courtyard, Street ST3 and the Big Stable public open space.

The revised scheme presented at the October meeting includes a through site link between the courtyard and the Big Stable public open space in the form of a single level nine metre wide opening. While the Panel supports this move consideration should be given to

increasing this opening to two levels to improve the visual connectivity through the building. This may also be reflected in the articulation of the east block consistent with the articulation of the park front block. Revised plan options were also presented that provided a link from the courtyard to Street ST3. Provision of this link in some form is also supported by the Panel.

Terrace designs, refined to include two typologies to break up the elevation of Street ST3, are supported by the Panel.

Principle 3: Density

The floorspace ratio is consistent with that outlined in the Newmarket DCP there are no density issues raised by the proposal.

Principle 4: Sustainability

It is noted that this scheme has been further developed:

- The method of window operation has been indicated on the elevations.
- All bathrooms on external walls have been provided with external operable windows. The exception to this is the bathroom on L1 which sits within the covered walkway

to the southwest lobby entrance. Due to the semi-internal condition at this location this is considered acceptable as shown.

Further considerations should include:

- On-site water harvesting, storage, treatment and re-use.
- Ceiling fans for bedrooms and living areas - these should be marked on the plans.
- It is not clear if air-conditioning is proposed. A passive approach to cooling is supported by the panel.
- Outdoor clothes drying areas should be indicated.

Principle 5: Landscape

A landscape plan has been submitted with the drawings. This clarifies the location and depth of soil planting in the courtyard. Soil depth of up to 1.3m has been indicated due to the lowering of the basement carpark levels. The landscape provides for a rich roof top common open space experience.

Principle 6: Amenity

The revised proposal successfully addresses a number of amenity issues noted previously:

- Amenity and connectivity have been improved in the revised plans. Consideration of further visual and spatial connectivity has been addressed in comments on Item 2 – Scale and Built Form.
- Access for all residents to the roof top common space facing the Big Stable has been improved. This space is now accessed via the through site link between the courtyard and Young Street.
- Secondary rooftop gardens, less usable due to their size, have been revised to provide private amenity for penthouse units thus reinforcing the roof top common open space and its relationship to the Big Stable.

Principle 7: Safety

No major safety concerns were raised.

Principle 8: Housing Diversity and Social Interaction

The Panel supports the proposal to improve housing availability in the area. The variety of unit types is noted.

Principle 9: Aesthetics

Building techtonics have been more fully developed and incorporate previous comments from the Panel to provide more articulation in building form and appearance:

- Variety in the design of the terrace houses provides relief along the courtyard and Street ST3.
- Change of fenestration and materiality between building modules has reinforced building modularity.
- Further considerations should include strengthening the link through the east block to two levels and articulation the massing of this block to suit.
- Variation in the colour of brick between the park front block and the east block should also be considered.

SUMMARY AND RECOMMENDATIONS

The Panel supports the revisions undertaken by the proponent and the scheme in general. Further refinement of the scheme should address how the scheme retains

some of the openness exhibited in the masterplan scheme in particular the connections between the common space, ST3 and the Big Stable public open space.

Further submissions should provide elevations for adjacent buildings on each street bounding the site to assist the Panel or Council in their review and comment.

The scheme provides a well thought through approach to the challenges of this pivotal site in Newmarket. Subject to incorporation of comments noted above the panel does not need to review further submissions of this proposal.

November 2017

INTRODUCTION

It was noted that this was a Development Application and the first Panel meeting with the applicant.

A copy of the Panel's Comments are attached, including the nine SEPP 65 Design Quality Principles (if the Application falls under SEPP 65). The Panel's comments, set out below, are to assist Randwick Council in its consideration of the application, and to assist applicants to achieve better design outcomes in relation to these principles.

The absence of a comment under any of the heads of consideration does not necessarily imply that the Panel considers the particular matter has been satisfactorily addressed, as it be that changes suggested under other heads will generate a desirable change.

The Panel draws the attention of applicants to the Apartment Design Guide (ADG), as published by Planning NSW (JULY 2015), which provides guidance on all the issues addressed below.

This document is available from the Department of Planning Environment

Note: *The Panel members' written and verbal comments are their professional opinions, based on their experience.*

To address the Panel's comments, the applicant needs to submit amended plans. Prior to preparing any amended plans, the applicant should discuss the Panel's comments and any other matter that require amendment with the assessing Planning Officer.

When addressing the Panel's comments by way of amendments, if the applicant does not propose to address all or the bulk of the Panel's comments, and wishes to make minor amendments only, then it should be taken that the Panel considers the proposal does not meet the SEPP 65 requirements or Urban Design Excellence & best practice. In these instances it is unlikely the scheme will be referred back to the Panel for further review.

PANEL COMMENTS

This pre-DA submission proposes options for pedestrian through-block connections in the S3 block of the Newmarket development site in Randwick.

Panel members are familiar with the site and the surrounding area.

1. CONTEXT AND NEIGHBOURHOOD CONTEXT

- The site is located within the Newmarket Green development, in a transitional area between the medical precinct to the north of Barker Street and a dense, low rise residential area to the south. The proposal is one component and stage within a larger precinct development, comprising 14 residential buildings ranging in height from two to seven stories. Immediately to the east of the site is located Randwick Girls High School and Randwick Boys High School. Rainbow Street Public School and Paine Reserve are located immediately to the south and southwest of the site.
- The historically significant area of Struggle Town is just to the west of the site and contains a number of structures with physical or social significance to the early settlement of Randwick. Immediately adjacent to the development site, along the same side of Young Street, are two significant heritage items that formed part of the original equestrian complex on the site: Newmarket House and the Big Stable Building. These items, along with the original Sales Ring and parade areas, are important parts of the public domain experience and heritage re-use of the site, along an axis extending from Barker Street through to the south end of the development site.
- Built form typology ranges from one-storey single family residences to residential three-level apartment buildings up to the 6 level Neuroscience Research Australia building directly across Barker Street from the site.

2. SCALE AND BUILT FORM

The applicant has, on prior advice from the panel, provided options relating to the central courtyard space in the development. The space forms a critical visual, spatial and pedestrian connection through the precinct. The panel recommends that the opening through the apartment building from the street be maintained as a two-story high opening, with a corresponding recess in the building's form.

In the row of low-rise terraces, it is the preference of the panel that pedestrian access be maintained through the row, rather than simply visual access across private courtyards. The residual space from removing one of the terraces should be dedicated to a single through connection, rather than split into two narrower passages.

3. DENSITY

No density issues are raised by the proposal.

4. SUSTAINABILITY

No sustainability issues are raised by the proposal.

5. LANDSCAPE

The central space between the buildings has been designed to allow public access to and circulation through, as well as passive recreation. However, there are fixed fences proposed at either end of the space. The panel would like to see a more refined solution to this security issue that does not present a fixed fence to the public domain during the hours when public access is allowed through the space. While the preference is for no gates or fences, a solution might involve a combination of larger sliding fences and screen planting, to allow the access to be more direct and open. If there is a physical solution proposed, details of the intended times and manner of operation of the line of security should be provided.

6. AMENITY

No issues with amenity.

7. SAFETY

The panel feels that safety is enhanced by a continuously trafficked public access through the development.

8. HOUSING DIVERSITY AND SOCIAL INTERACTION

No issues with diversity.

9. AESTHETICS

No issues with aesthetics.

SUMMARY AND RECOMMENDATIONS

The panel is supportive of this proposal, should the suggested amendments be incorporated.

Development Engineer and Landscape Development Officer

This report is based on the following plans and documentation:

- *Amended Architectural Plans by Smart Design Studio Sheets DA000-640 Revision C stamped by Council 30th January 2018;*
- *Revised Statement of Environmental Effects by Urbis dated 14th September 2017;*
- *Amended Traffic and Parking Report by AECOM dated 24th January 2018;*
- *Geotechnical Report by Douglas Partners dated September 2016;*
- *Volume 2, Appendix C, Landscape Report & Drawings by Arcadia, pages 1-34, Issue 3, dated November 2016;*
- *Volume 2, Lot S3, Amended Landscape Drawings by Arcadia, pages 1-18, dwg's 1-200, Issue 2 & A, dated Jan 2018;*
- *Landscape Masterplan & Landscape Plans by Arcadia, dwg's 001-501, Issue C, dated Nov 2016;*
- *Amended Landscape Masterplan & Softworks Plans by Arcadia, dwg 100-203, Issue A, dated Jan 2018;*
- *Supplementary 'Arborists Statement' by Tree IQ, dated 23/11/16.*
- *Operational Waste Management Plans for Lots S1, S2, & S3 by Elephants Foot Recycling Solutions dated 6th October 2016, 5th October 2016 and 14th August 2017 respectively.*

Background

The DA is for a subsequent stage of the Concept Approval Staged DA (88/2016) that provided for a mixed use development on the subject site comprising the following:

- Site preparation including demolition of structures, removal of vegetation and excavation*
- Road infrastructure and public domain conceptual layout*
- Subdivision into 9 development lots and one public open space lot*
- Four new public streets intersecting from Young, Jane and Botany Street*
- A set of built form controls (dwelling types, storeys, heights, setbacks and landscape areas) that will guide the form and character of buildings to be erected on the site*
- 19 buildings which range from 2 to 8 storeys with an indicative number of 650-750 residential dwellings, retail and commercial uses including an urban plaza.*
- Provision of parking at the basement level in addition to on-street parking across the site*
- Adaptive re-use of the Newmarket House and the Big Stable Building*
- Site remediation and earthworks*

Proposed Development

The subject development application is for the development of Southern Precinct of "Newmarket Randwick" site including demolition of existing buildings and structures and development of Lots S1, S2 & S3 providing a total of 172 dwellings. Summary of development on individual lots are detailed as follows.

Lot S1 - Construction of a five storey residential flat building containing 17 units, 4 townhouses & 9 three storey multi dwelling units with basement & on-site parking for 40 vehicles (Total 30 Dwellings).

Lot S2 - Construction of a three storey residential flat building containing 16 units plus 4 x two storey terrace dwelling units with basement & on-site parking for 24 vehicles (Total 20 Dwellings)

Lot S3 - Construction of a part 4/part7 storey residential flat building containing 112 dwellings, & 12 two storey multi dwelling units, basement carparking for 134 vehicles; landscaping and associates works (Total 122 Dwellings).

(Amended Plan notes)

S1: Increase front parapet of apartment building by 380mm to RL57.07; Switch skillion roof over townhouses and increase ridge height by 280mm to RL51.88; Modify window dimensions in apartment building;

S2: Increase height of 3 storey apartment building by 195cm; reconfigure: internal layout of apartments, basement entry, lobby stairs, entry ramp, and materials and finishes; Add new clothes drying area and landscaping;

S3: Delete one level to retain 7 storey southern wing apartment building, add two levels at third and fourth storey between the 7 storey southern apartment building and the 4 storey northern apartment building; increase height of undercroft area from single storey to two storey to improve visual connection between communal open space area in the middle of the site and the public domain to the east along Young Street; Increase footprint of basement to provide additional bicycle spaces and storage and minor internal changes to apartments.

DRAINAGE / FLOOD PLANNING LEVEL 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) directly into Council's underground drainage system located in one of the streets fronting the development site.

Flood planning levels for the streets fronting this development site, and their relationship to proposed floor levels and key infrastructure within the site, were the subject of detailed discussion in the determination of DA/88/2016. Conditions relating to flood planning levels and certification of the floor levels and protection of openings have been included within this report.

Community Garden

To compensate for the loss of rainwater storage to Randwick Council's Community garden created by the removal of connections from demolished buildings in the southern portion of the site, the existing stormwater discharge from the 'Big Stable' building in the south east portion of the Newmarket Development site shall be redirected to rainwater tanks within the community garden as part of this development approval. Documentation and plans demonstrating compliance with this requirement are to be submitted to Council's Engineers for approval prior to issuing of a construction certificate. The documentation must also include the likely timing of the works with the reconnection required to be in place as soon as practical. The applicant has indicated in email dated 13th February 2018 from Thomas Ghossein of CBUS that they have agreed in principle to this arrangement.

PARKING COMMENTS

Part E5 (Newmarket Green) of Council's DCP and the conditions of consent for DA/88/2016 set out the parking rates for the development. Where no rate is specified then parking rate defers to Part B7 of the DCP. Condition 41 of the development consent for DA/88/2016 details the following rates:

Vehicle Parking

- 0.5 space per 1 bedroom unit
- 1 space per 2 bedroom unit
- 1.5 spaces per 3 bedroom unit
- 1 visitor space per 5 units
- 2 spaces per residential terrace
- 1 space per 40m² for commercial

PARKING SUMMARY

- Lot S1 – 42 spaces required, 41 provided plus 2 proposed on street (complies)
- Lot S2 – 27 spaces required, 23 provided plus 4 proposed on-street (complies)
- Lot S3- 157 spaces required, 133 provided plus 23 proposed on-street (complies)

Condition 41 in DA/88/2016 permits visitor parking to be created on-street only to the extent that any new visitor spaces are actually created. (i.e they cannot already be existing on-street spaces). All new on-street spaces have been created on new roads DV1, ST3 & ST4 hence the proposed development complies with this requirement. Some of the on-street spaces on Road DV1 may conflict with likely future pickup and drop off zone for the adjacent Rainbow St public school, however while a total of 29 visitor on-spaces for the development is proposed, 56 on-street spaces will be created, hence it is considered there is room for any future pickup and drop-off.

PARKING FOR LOT S1 - CONSTRUCTION OF A FIVE STOREY RESIDENTIAL FLAT BUILDING CONTAINING 17 UNITS, 4 TOWNHOUSES + 9 x THREE STOREY MULTI DWELLING UNITS AND PARKING FOR 40 VEHICLES:

FOR COMPONENT S1 (30 DWELLINGS)

Parking Generation

8 x 1 bedroom apartments	8 x 0.5 = 4 spaces
7 x 2 bedroom apartments	7 x 1.0 = 7 spaces
2 x 3 bedroom apartments	2 x 1.5 = 3 spaces
4 x 2 bedroom townhouses	4 x 1.0 = 4 spaces
9 x 3 bedroom terraces	9 x 2 = 18 spaces
Visitor Parking (1 per 5 units)	30/5 = 6 spaces

Parking Required = 42 spaces (including 6 visitor spaces)

Parking proposed

- 23 spaces provided within basement carpark for 21 units above (including 4 visitors + 3 accessible) with access off new road DV1
- 18 spaces for the terraces (2 each within garage and driveway –tandem arrangement with access from new laneway)

- All parking provided off-street except for 2 visitor on street spaces (not shown on plan)
- Total of 43 spaces (complies).

Motorbike Parking

Motorbike Parking is to be provided at 1 space per 100 carspaces (Table 4 Part E5 of DCP)

Motorbike parking Required = $0.01 \times 43 = 0.43$ spaces (<0.5 not required)

Motorbike parking Provided = 0 spaces.

Bicycle Parking

Bicycle parking to be provided at 1 space per dwelling (Table 4 Part E5 of DCP)

Bicycle parking required = 26 spaces

Bicycle parking provided = 17 for the units + terrace house will have enough room for storage of bicycles.

S1 Parking Layout Comments

- Basement Entrance is from southern frontage to 21 dwellings. 9 townhouses each have separate vehicular entrances.
- AS 2890.1 - Category 1A Driveway <25 spaces Table 3.1 requires driveway width of between 3 & 5.5m for exit/entry combined or 3m each if separate entry/exit. Separate entry exit indicated on plans. 3m each ok
- Vehicle entrance to Basement carpark on lot S1 is indicated as having a crest at RL 40.44 (plan DA.S1.02.001 /13) Flood Level shown on flood study submitted with DA/88/2016 is RL 40.10 for 1% AEP. Minimum 300mm freeboard satisfied, no need for flood gate.
- The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of Australian Standard 2890.1:2004.

PARKING FOR LOT S2 - CONSTRUCTION OF A THREE STOREY RESIDENTIAL FLAT BUILDING CONTAINING 16 UNITS, PLUS 4 X TWO STOREY TERRACE DWELLING UNITS WITH BASEMENT & ON-SITE PARKING FOR 24 VEHICLES:

Amended Plan Comments

S2: Increase height of 3 storey apartment building by 195cm; reconfigure: internal layout of apartments, basement entry, lobby stairs, entry ramp, and materials and finishes; Add new clothes drying area and landscaping;

S2 Parking Provision Comments

FOR COMPONENT S2 (20 DWELLINGS)

Parking Generation

4 x 1 bedroom apartments	$4 \times 0.5 = 2$ spaces
10 x 2 bedroom apartments	$10 \times 1.0 = 10$ spaces
2 x 3 bedroom apartments	$2 \times 1.5 = 3$ spaces

E5 of the DCP. It is noted the variation has been created by the inability of the driveway space to achieve compliance with Council's maximum grades for carspaces.

PARKING FOR LOT S3 - CONSTRUCTION OF A PART 4/PART7 STOREY RESIDENTIAL FLAT BUILDING CONTAINING 112 UNITS & 12 TWO STOREY MULTI DWELLING UNITS, CARPARKING FOR 134 VEHICLES; LANDSCAPING AND ASSOCIATES WORKS

S3 Parking Provision Comments

FOR COMPONENT S3 (122 DWELLINGS) Parking Generation

20 x 1 bedroom apartments	20 x 0.5 = 10 spaces
72 x 2 bedroom apartments	72 x 1.0 = 72 spaces
19 x 3 bedroom apartments	19 x 1.5 = 29 spaces
11 x 3 bedroom Terraces	11 x 2.0 = 22 spaces
Visitor Parking (1 per 5 units)	122/5 = 24 spaces
Total Parking Required	= 157 spaces (including the 24 visitor space)

The applicant proposes 133 spaces in basement which will satisfy parking for the residents however the 24 visitor spaces are proposed to be provided on-street.

Condition 41 in DA/88/2016 permits visitor parking to be created on –street only to the extent that any new visitor spaces are created. (i.e they cannot already be existing on-street spaces). Development complies.

Bicycle Parking

Bicycle parking to be provided at 1 space per dwelling (Table 4 Part E5 of DCP)

Bicycle parking required = 122 spaces

Bicycle parking provided = 122 spaces. (complies)

Motorbike Parking

Motorbike Parking is to be provided at 1 space per 100 carspaces (Table 4 Part E5 of DCP)

Motorbike parking Required = $0.01 \times 133 = 1.33$ spaces

Motorbike Parking provided = 2 spaces (complies)

Service and Delivery Parking

Service and Delivery Parking is to be provided at the rate of 1 space per 50 units up to 200 dwellings plus 1 space per 100 dwellings thereafter (as per Part B7 of DCP).

Service and Delivery Spaces Required = $122/50 = 2.4 = \text{say } 2$ spaces

No Service and Delivery Spaces have been exclusively dedicated on the submitted plans. As visitor parking is provided on-street it is anticipated that service and delivery parking will be provided on-street.

S3 Parking Layout Comments

- *Basement Parking for 133 vehicles with vehicle entrance from northern frontage (street ST3).*
- *Entry grade to basement satisfactory. Crest provided at RL 41.60 AHD (footpath 41.3) for flooding. 1% Flood level around 41.35 (250mm freeboard)*
- *AS 2890.1 - Category 1A Driveway for 133 spaces with Table 3.1 requires driveway width of between 6 to 9 m for exit/entry combined or 3m each if separate entry/exit. Driveway indicate as 5.54m, does not comply. Crossing will however be 6m wide*

GEOTECHNICAL COMMENTS

The engaged geotechnical engineers (Douglas Partners) have established a network of wells across the entire Newmarket site designed to monitor the level of groundwater. The relevant monitoring wells are indicated in the geotechnical report by Douglas and Partners

The investigation indicates that groundwater may be encountered at depths of about 2.5m to 4m below ground surface with fluctuations of at least a metres occurring during periods of heavy rainfall.

As basement Parking will be provided for each lot the excavations will therefore extend into the groundwater table. Allowance must also be made for future fluctuations in the water table. Conditions relating to the adequate management of groundwater and subsoil drainage have been included into this report, including the requirement for a fully tanked basement structure. There must be no collection and discharge of groundwater to Council's street drainage system.

SERVICE AUTHORITY COMMENTS

Section 3 Part F5 of Council's DCP 2013 states;

- j) All overhead service cables, including power lines, telecommunications cables and associated infrastructure on the development site and in the street/s immediately adjacent to the development are to be placed underground in accordance with the requirements of the relevant power supply authority, at the applicant's cost where:*
 - the development comprises the erection of a new mixed use or medium density residential building containing 40 or more apartments or is a substantial non-residential development; and*
 - there is at least one full span located immediately adjacent to the development, with no responsibility for other property connections.*
- k) If the applicant considers that the undergrounding of the power lines will not achieve the objectives set out in 1.1, the applicant must submit written and detailed justification with its DA documentation for consideration by Council.*

*The subject **is** subject to this clause. A suitable condition has been included in this report.*

It should be noted that Section 4.6 Part E5 (Newmarket Green) of the DCP also requires all electrical reticulation to be located underground.

WASTE MANAGEMENT COMMENTS

S1 Waste Management Comments

The proposed development on Lot S1 will generate the following amount of waste based on waste generation rates in Part B6 of Council's DCP.

Lot S1 - construction of a five storey residential flat building containing 17 dwellings, 4 townhouses, 9 three storey multi dwelling units and parking for 40 vehicles:

It is noted the townhouses and apartments units will share the waste chute access and the 240L recycling bins (refer to Waste Management Plan by Elephants Foot Appendix M1)

Normal garbage is collected at the base of each chute in 660L bins and is not compacted.

17 units & 4 townhouses @ 120L per week = $21 \times 120 = 2,520L$

No. of 660L bins required = $2520/660 = 3.8 = 4 \times 660L$ bins

Recycling - 240L *Recycling bins are located in the waste compartment on each residential level,*

17 units + 4 townhouses @ 60L per week = $21 \times 60 = 1,260L$

No. of bins required weekly = $1260/240 = 5.25 = 6 \times 240L$ bins

The submitted WMP is consistent with this requirement and no objections area raised.

Full waste and recycling bins will be transferred, via the vehicle ramp, to the collection room on the ground level. An appropriate bin incliner tug will be used when transferring bulk 660L MGB up and down the vehicle ramp. This is indicated in Appendix C.4.

S2 - Waste Management Comments

The proposed development on Lot S2 will generate the following amount of waste based on waste generation rates in Part B6 of Councils DCP.

Waste is to be placed in chutes accessible from every floor and then compacted at the bottom in basement (compaction ratio 2:1). The WMP then indicates that 660L bins are to be used.

For the 16 units

Normal garbage @ 120L per week = $16 \times 120 = 1,920L$

WMP indicates 660L bins to be used.

No. of 660L bins required = $1920/660L = 2.9 = 3 \times 660L$ bins

Recycling @ 60L per week = $16 \times 60 = 960L$

WMP indicates 240L bins to be used.

No. of 240L bins required weekly = $960/240 = 4 \times 240L$ bins

Architectural plans and WMP indicate $3 \times 660L$ bins + 4×240 recycling provide in basement and therefore satisfactory

Garbage and recycling are to be disposed of into 660L and 240L bins respectively, located in the communal waste room on the basement level. The garbage is not compacted.

Full waste and recycling bins will be transferred, via the vehicle ramp, to bin holding area on the ground level. An appropriate bin movement aid will be used when transferring bulk 660L MGB. This is indicated in Appendix C2.

The waste management arrangements are considered to be satisfactory.

S3 - Waste Management Comments

The proposed development will generate the following amount of waste based on waste generation rates in Part B6 of Councils DCP.

For the 112 apartments

Waste is to be placed in chutes accessible from every floor and then compacted at the bottom in basement (compaction ratio 2:1). The WMP then indicates that 660L bins are to be used.

Expected Waste generation from the 112 units;

Normal garbage @ 120L per week = $112 \times 120 = 13,440\text{L}$

Normal garbage after compaction (2:1) = 6720L

No. of 660L bins required = $6720/660\text{L} = 10.2 = 11 \times 660\text{L bins}$

Recycling @ 60L per week = $112 \times 60 = 6720\text{L}$

WMP indicates 240L bins to be used for recycling.

No. of 240L bins required weekly = $6720/240 = 28 \times 240\text{L bins}$

Architectural plans and WMP indicate 11 x 660L bins + 28 x 240 recycling provide in basement and therefore satisfactory

Normal Garbage discharges into 660L MGB's which is compacted. The discharge is located in the waste discharge rooms on basement 1 for each building/building core. Each waste discharge room will house 2 x 660L mounted on linear tracks and the quantity of 660L MGB's

For recycling 1 x 240L bin will be situated on each residential level for easy access by residents. Additional 240L bins will also be stored in the bin storage room on the ground level. The building caretaker will utilise the lifts to transfer full bins with empty bins when required.

On collection days, full garbage and recycling will be transferred to the bin holding area room on the ground floor level. Large 660L bulk bins will be transported via the vehicle ramp using an appropriate bin incliner tug (shown in Appendix C.3 in WMP).

Waste management For the 11 Terraces

Each terrace will be supplied with 1 x 240L bin for garbage and 1 x 240L bin for recycling. This is satisfactory.

The Waste management arrangements detailed in the WMP appear to be satisfactory.

TREE MANAGEMENT COMMENTS

The Preliminary Arboricultural Impact Appraisal by Tree IQ, dated 12.02.16, submitted with the Infrastructure DA (662/2016), assessed all trees throughout the whole of the site, providing recommendations for retention, protection and removal.

The Supplementary 'Arborists Statement' submitted with this application identifies only one tree that has the potential to be affected by these works, being a large and mature

Ficus macrophylla (Moreton Bay Fig, T160), within S1, in the northeast corner, at the end of Jane Street, which is one of the most significant trees within the whole Inglis development site as well as the Randwick LGA, and is included in Council's Register of Significant Trees, so its unconditional protection and retention is required.

The Arborist has identified the following:

- The southern edge of the Ground Floor Level of Building S1 (DA.S1.02.001/13, dated 23/01/18) encroaching within its TPZ, but as this will represent less than 10%, will be acceptable, with the basement level to be wholly outside of its TPZ;
- Any new fencing within its TPZ needing to be a lightweight structure, supported only on posts or a pier and beam arrangement;
- The Siteworks & Stormwater Drainage Plan (C022/B dated 09/09/16) showing that the finished level of the new road within its TPZ will be above existing grades, so, compaction of sub-grades needs to be avoided, with existing surfacing to be retained & re-used where possible, and permeable paving introduced where possible;
- The use of tree sensitive designs to bridge/avoid roots during works associated with new infrastructure for RL1 (laneway) & ST4 (street), as well as for the new culvert (Siteworks & Stormwater Drainage Plan C0223/B, dated 09/09/16), which appears to relate to another separately issued approval.

Where works will result in a major encroachment of its TPZ, AS4970 requires that the project Arborist demonstrate how the tree can remain viable, with the current letter stating that a site specific Tree Protection Plan & Specification dealing with the items listed above will be prepared, with conditions in this report detailing that these Reports be submitted to, and be approved by, Council, prior to the commencement of works in this area.

Minor clearance pruning may be required, and while three dimensional laser surveying has confirmed that this should amount to no more than 5% of its total crown volume, due to its significance (as evidenced by inclusion on Council's Significant Register), conditions in this report require that a high degree of control be exercised over the exact location and extent of pruning that is performed, and as such, Council's Landscape Development Officer must be present on-site, prior to pruning.

LANDSCAPE PLAN COMMENTS

While amended Landscape Plans dated January 2018 now supersede the previous set of November 2017, the scheme remains fundamentally the same, with only minor changes made, with the main features to be:

- Stage S1: a central courtyard featuring a pergola, seating, BBQ facilities and formal/sculptural tree planting;
- Stage S2: landscape forms which reference the horse parade grounds, including curved courtyard walls and lush, layered planting, together with a communal area/community garden;
- Amended Stage S3: main feature is communal open space, featuring an open lawn area, outdoor kitchen/BBQ, private seating zones and social gathering spaces, all of which will be accessible to residents.

These spaces are intended to provide a diverse range opportunities and activities for both occupants and visitors, with relevant conditions requiring that these concepts be delivered on-site so as to ensure that this treatment provides the intended contribution to site amenity.

Suitable conditions are included in the recommendation to address the matters above.

Environmental Health Officer

Council's Environmental Health Officer has provide the following comments on the proposal:

Proposed Development:

Development of Southern Precinct of 'Newmarket Randwick' site including demolition of existing buildings and structures; on Lot S1 construction of a five storey residential flat building containing 17 dwellings, basement carparking , 9 three storey multi dwelling units and parking for 40 vehicles; on Lot S2 construction of a three storey residential flat building containing 16 dwellings, basement carparking, 4 two storey multi unit dwelling units and parking for 24 vehicles; on Lot S3 construction of a part 4/part7 storey residential flat building containing 112 dwellings, basement carparking, 12 two storey multi dwelling units, carparking for 134 vehicles; landscaping and associates works (variation to height control)(Consent is also required from NSW Office of Environment and Heritage and NSW Office of Water).

Comments:

Land Contamination

A preliminary investigation contamination report prepared by Douglas Partners (project 71659.03) dated June 2015 was submitted with the development application, which identifies that the site may be contaminated. The report concludes that based on the results of the contamination investigation, it is considered that the site, for the most part, is suitable for future residential and open space land uses, subject to appropriate management of identified contamination. A tier 2 assessment of the data against the land use specific criteria should be undertaken once the planned development layouts are known.

Subsequently a detailed site investigation (DSI) on contamination was prepared by Douglas Partners (project no. 71659.04) dated July 2016. Based on the results of the current DSI and previous investigations, it is considered that the site can be made suitable for future residential and open space land uses, subject to appropriate management of identified contamination in soil and groundwater.

The main sources of contamination identified include the former dry cleaner site where there are underground storage tanks and a localised plume of perchloroethylene was identified. This source of contamination is proposed to be removed under DA/347/2016 as per the remedial action plan (RAP) prepared by ME Tech Consulting (Project no. EP39-RP02) dated 17 May 2016.

Hydrocarbons have been identified in the groundwater and it is noted that 7 Eleven has an obligation under their voluntary management plan to continue treatment and monitoring of groundwater contamination at least until September 2017.

The DSI envisages that further management and monitoring of the identified contamination will be required which is to include but not limited to the preparation of an RAP for the entire site, implementation and validation of the RAP and implementation of an acid sulfate soils (ASS) management plan where it is identified that disturbance of ASS will occur.

Following the DSI a RAP has been prepared by Douglas Partners (project no. 71659.08) dated September 2016 with details of the remedial strategies considered to be the most appropriate for practicality and cost effectiveness.

Based on the complexity and extent of contamination it is considered a site auditor would be required to review the current proposed contamination and investigation strategies as well as the strategies proposed to remediate the site. It is therefore recommended that a site audit statement (SAS) be required.

Before the determination of the development applications it is requested the following additional information be provided to determine the suitability of the land for the proposed development, having regard to the provisions of the Environmental Planning & Assessment Act 1979, SEPP 55, Contaminated Land Management Act 1997 and Council's Contaminated Land Policy 1999.

Appropriate conditions in relation to land contamination, remediation and validation have been included in this referral.

Noise

Appropriate noise conditions have been included in this report.

Recommendation:

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

Suitable conditions are included in the recommendation to address the matters above.

Heritage Planner

Consultant Heritage Planner has provided the following comments on the proposal:

1.0 Heritage Assessment of Development Application DA/88/2017

The Newmarket Green Site at Barker Street Randwick encompasses the redevelopment of the former Inglis Horse Sales Yards and associated buildings extending from Barker Street Randwick though to the northern side of Paine Reserve Randwick. The overall development has been the subject of a Stage 1 Master Plan approved by the NSW Land & Environment Court on the 4th April 2017. Approval provided for mixed use residential and neighbourhood retail/commercial development across the northern, eastern and southern precincts of the overall site. The subject application DA/88/2017 relates to the southern precinct, separate development consent having been recently granted for works to the eastern and northern precincts.

This assessment considers the impact of the proposed amended application upon heritage significance of the site and setting including the heritage listed Big Stable and Newmarket House sites and the adjacent Struggletown Conservation Area.

2.0 Proposed Development

DA/88/2017 is for localised amendments to approved works on the Southern Precinct of the Newmarket Green Complex Randwick. The subject sites and the proposed amendments are outlined as follows:

Southern Precinct Buildings

Site 1

Existing approval comprises:

S1.1 A five storey building of 17 apartments and a group of 4 townhouses

*S1.2 A three storey group of 9 terrace houses.
Parking for 40 vehicles*

Amended plans propose the following:

S1: Increase front parapet of 5 storey apartment building by 380mm to RL57.07; Switch skillion roof over townhouses and increase ridge height by 280mm to RL51.88; Modify window dimensions in 5 storey apartment building;

Site 2

Existing approval comprises:

S2.1 A three storey building of 16 apartments

S2.2 A two storey group of 4 terrace houses.

Amended plans propose the following:

S2: Increase height of 3 storey apartment building by 195cm[this appears to be a typographical error and is assumed to be 195mm]; reconfigure: internal layout of apartments, basement entry, lobby stairs, entry ramp, and materials and finishes; Add new clothes drying area and landscaping.

Site 3

Existing approval comprises:

S3.1 A two storey group of 12 townhouses

S3.2 A seven storey building with a 4 storey wing along the eastern frontage of 112 apartments.

Carparking for 134 vehicles.

Landscaping and associated works (variation to height control

Amended plans propose the following:

S3: Delete one level to retain 7 storey southern wing apartment building, add two levels at third and fourth storey between the 7 storey southern apartment building and the 4 storey northern apartment building; increase height of undercroft area from single storey to two storey to improve visual connection between communal open space area in the middle of the site and the public domain to the east along Young Street;

Increase footprint of basement to provide additional bicycle spaces and storage and minor internal changes to apartments.

2.0 Comments

The impact of the overall Newmarket Green Redevelopment has previously been assessed in detail with acknowledgement that this will have a significant impact upon the overall setting including Rainbow Street Public School and Paine Reserve to the south; the context of both listed buildings on the site, namely The Big Stable and Newmarket House/ Sale Yard, and upon the low scaled Struggletown Conservation Area extending into the western side of the overall Newmarket site.

Accepting the previous consent to the overall development envelopes and building forms the proposed amended forms are considered as follows.

Site S1

The parapet height of the 5 storey apartment building is increased by 380mm to RL 57.07.

The applicant notes the increase is to accommodate falls [to the roof] required to accommodate drainage. It is also stated that the 'architectural kickups' in each elevation remain at the existing RL.

As the 'architectural kickups' are the prime designator of perceived height for this building, the impact of the amendment is considered minimal and unlikely to be perceived from the retained areas of the Struggletown Conservation Area to the north and northwest of the subject building or from the views of the building from the adjacent Paine Reserve to the south.

Modifications of the window dimensions to the five storey building are considered to improve the aesthetic qualities of the structure viewed from the above mentioned vantage points and subsequently the refinement of the building seen relative to the setting and areas/items of heritage significance.

Increases to the height of the external parapet of the terrace house roof are proposed to enable a pitched metal roof draining to the central court rather than a flat roof. This is considered an improved building practice in the Australian Environment where flat membrane clad roofs are highly prone to failure. The result is an increased height to the outer parapet/roof edge of an additional 280mm and of 270 mm to the garage/studio portion of the terrace group.

The increased height, whilst minimal, will be evident from the rear areas of residences within the Struggletown Conservation Area to the north. The increased height will have minimal perception from the front of these residences due to first floor additions to the majority of early residences and substantial planting screening views through to the rear of the sites fronting Middle Street. The additional height is considered to have some but limited impact upon the Conservation Area.

Other changes to the window fenestration and balcony upturns are located within the existing horizon of the proposed buildings and unlikely to alter the approved relationship of the new works to the adjacent Conservation Area and the heritage listed buildings located well to the east of the S1 sites.

Site S2

The proposed three storey apartment building and two storey terrace house row on site S2 represent a modest scale of construction within the overall setting. The concurrent proximity of these structures to contributory buildings within the Struggletown Conservation Area and the oblique sight lines from the northeast corner of the three storey apartment building to Newmarket House emphasise the need for exceptional design resolution of these buildings. It is noted that the northern and southern elevations of the three storey apartment building appear to be incorrectly labelled on the exhibition drawings.

The proposed increase in overall height needs to be clarified. The identification of this as 195 cm on the notification description of works represents a significant increase of nearly 2 metres in height. It is assumed that this is a typographical error with the increase being 195 millimetres and not centimetres. Should this occur at the ridge line located toward the southern elevation of the building the impact is remote to the northern boundaries with residences in the Struggletown Conservation Area. This and the sloping roof form would substantially lessen any visual impact upon the Conservation Area. Assuming the height increase is 195 millimetres the change is considered to have minimal additional impact upon the heritage significance of the Struggletown Conservation Area to the north and the listed Newmarket and Big Stable Buildings to the east.

Internal changes to planning and the carpark entry are not considered to impact upon the heritage significance of the adjacent Conservation Area or the listed buildings to the opposite side of Jane Street.

The proposed screen planting to the northern side of the three storey apartment building is questioned as to effectiveness given the narrow deep soil zone and extent of basement carparking. The illustrated tree planting appears to provide limited screening to the ground floor northern deck areas.

The 1300 high balustrading to the upper floors provides limited privacy to the rear areas of residences in the Struggletown Area given the balustrade at 1300mm height are lower than the accepted eye line height of 1500mm. The capacity of the ground floor screen planting and first and second floor balustrades located only 4metres off the boundary to maintain visual privacy to residences in the conservation area is questioned. This is likely to result in further works to houses in the Conservation Area to ensure privacy.

The relationship of the ground floor outdoor areas with the adjacent garden bed and northern boundary fence is not clarified. The drawings indicate a need for a retaining wall on the northern boundary incorporating a fence above or a set down of ground level beyond the raised ground floor deck which extends at least a metre into the 4 metre setback zone. Failure to resolve the interface of the new three storey apartment complex and the residences in the Conservation Area will potentially lower the amenity and value of the residences in the Conservation Area.

Exacerbating the impact of the proposed construction is the light /reflective colouring proposed for the raised balustrades. In a location where recessive colour and material finishes would serve best to mitigate the prominence of the new works, the use of white glazed brick appears an unsuitable response to the character of the Conservation Area particularly when employed in such a long elevation.

Changes to the landscaping and addition of a clothes drying area are considered to improve the overall quality of the S2 buildings relative to the adjoining Heritage Conservation Area.

Site S3

The large buildings occupying Site S3 have the most impact upon the State Heritage listed Big Stable and the perception of the site from Paine Reserve and Rainbow Street Public School to the south. The proposed opening of the throughway/ undercroft from Young Street through to the notably narrow central space between the seven and four storey buildings is supported. This serves to enhance views to and awareness of the Big Stable and its setting and to improve the quality of the narrow walkway between Buildings 3.1 and 3.2. This opening should be provided as open void and not be screened by glazing or other translucent or clear screening.

It remains questioned why this enhanced undercroft is not continued even at a single storey height about the south eastern corner of the seven story building providing improved sightlines to the Big Stable from Paine Reserve and enhancing spatial links between the stables building and the historically open setting to the south. This is particularly important given the increasing density of development on the adjacent Rainbow Street Public School Site.

The introduction of curved outer corners to the successive bays of the seven storey Building 3.2 is of limited success in improving the articulation of the overall form due to the repetitive nature of the corner elements. The associated pattern of banding produces a pancake stack effect exacerbated by the chosen colours and lack of variation in the height and extent of the alternating bands. This, the most

prominent building in the setting, and that seen from the greatest distances incorporates little to ameliorate its scale and bulk.

4.0 Recommendations

Heritage Conservation

To mitigate the impact of the proposed works on the heritage significance of potential archaeological relics and on the Big Stable, Newmarket House, Struggletown Conservation Area and the visual curtilage including Paine Reserve and Rainbow Street Public School sites the following recommendations are made.

4.1 The conditions of consent within the Excavation Permit issued by the Department of Environment and Heritage are to be complied with.

4.2 In the event of interpretive panels or other interpretive devices enabling interpretation of the former use of the site as horse sales yards and hotel are being provided in other areas of the overall development, a heritage interpretation plan is to be submitted for approval by Council and to be implemented prior to occupation of the works.

4.3 The annotation of elevations to Building 2.2 in the application is to be verified as to north and south orientation and if required corrected in the submitted documents.

4.4 The treatment of rear balconies and of ground floor decks to Building S2.2 is to be further resolved in terms of oversight of the Struggletown Conservation Area. Items to be further resolved are:

- The relative levels of ground floor decks and landscape areas to the northern rear boundary and ground plane.*
- The use of white glazed brick to the northern elevation, this not being supported on the basis of prominent colour exacerbating rather than mitigating the proximity and scale of the new works to the Conservation Area. Subdued colour finishes should be utilised to all elements of the northern elevation of Building S2.2.*

4.5 The proposed two storey undercroft at the eastern end of Building S3 linking Young Street and the central space between the seven and four storey structures is not to be screened by glazing or other translucent or clear screening.

4.6 To enhance sight lines to the Big Stable and the historic links with the open parklands to the south, the undercroft to the eastern end of Building S3 should be extended about the southeastern ground floor of the building to at least a storey height with associated reconfiguration of ground floor service areas and apartments.

4.7 To mitigate the massing of Building S3 the horizontal banding of the exterior elevations should be relieved by further articulation. Elements to be considered include openings to the top floor verandah soffit, overlays of glazing or brickwork extending up from the pronounced horizontal layering or inserts to the external banding at key points such as the beginning of the recessed verandas reducing the apparent length of the three principle bays.

Planning Comment: There are no objections to the inclusion of the above mentioned conditions however it is considered that the recommendation for condition 4.6 is unwarranted for the following reasons:

- The increased roadway width along the southern boundary improves and sightlines through to the Big Stable;
- The spatial and open setting of the park is significant and it is considered an undercroft ground level in this part of the RFB would be of only minimal value and has the potential to present disjointed appearance within the streetscape which has been improved by refining the ground level by replacing the complicated stepped in elements at ground level with streamlined terraces and planters which are considered to contribute to the streetscape presentation along Young Street.
- The open setting of Paine Reserve and Rainbow Street public school remain substantial even with the approved development at the School where the closest building is some 66m away. maintaining a view across to the Big Stable. The envelopes have been approved as acknowledged by the heritage planner;

Suitable conditions are included in the recommendation to address the matters above.

Sydney Airport Corporation Limited

The following comments were provided from Sydney Airport Corporation Limited:

Sydney Airport received the above application from you.

This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.

The application sought approval for the PROPERTY DEVELOPMENT to a height of 58.0 metres Australian Height Datum (AHD).

In my capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, I have no objection to the erection of this development to a maximum height of 58.0 metres AHD. The approved height is inclusive of all lift over-runs, vents, chimneys, aerals, TV antennae, Construction cranes etc.

Should you wish to exceed this height a new application must be submitted.

Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.

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

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

Information required by Sydney Airport prior to any approval is set out in Attachment A.

"Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1))."

The height of the prescribed airspace at this location is 75 metres above AHD.

Planning for Aircraft Noise and Public Safety Zones

Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF).

Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided

NOTE:

1. *a person who conducts a controlled activity otherwise than with or in accordance with an approval commits an offence against the Act.*
 - *s. 183 and s. 185 Airports Act 1996.*
 - *Penalty: 250 penalty units.*
2. *if a structure is not authorised, the Federal Court may order a person to carry out remedial works, mark or light, or reduce the height of or demolish, dismantle or remove a structure.*

Eastern Suburbs Local Area Command

The following assessment under CPTED has be provided to Council:

See appendix attached to this report.

Suitable conditions are included in the recommendation to address the matters above.

Water NSW

The following comments were provided by Water NSW as an integrated referral (dated 31 October 2017):

Integrated Development referral under s.91A of the Environmental Planning and Assessment Act 1979 for 150-174 Barker Street, 81 Botany St, 1 Jane St, 18 Jane St, 21 Jane St, 8-20 Young St and 29-39 Young St Randwick NSW.

Reference is made to your request for a response in relation to the proposed development described as Lot 1 DP32027, 150-174 Barker St, 81 Botany St, 1 Jane St, 18 Jane St, 21 Jane St, 8-20 Young St and 29-39 Young St Randwick NSW and identified as DA/88/2017.

WaterNSW has determined that the proposed development will encounter groundwater during the excavation process, and is subject to a Water Supply Work Approval under the Water Management Act 2000 for dewatering during the construction phase. This determination is subject to appropriate construction methods to be employed to minimise volume of groundwater take during the construction phase. WaterNSW provides General Terms of Approval attached.

Please note: From 1 July 2016, many functions previously undertaken by DPI Water have transferred to WaterNSW. This includes Integrated Development referral under Section 91A of the Environmental Planning and Assessment Act 1979 that has groundwater implications. Please ensure that any future groundwater matters are referred to Water Regulation (Coastal), Customer and Community, WaterNSW, PO Box 398, Parramatta NSW 2124.

For further information in regards to making an application, and information required for the Approval information licensing requirements, including the preparation of a dewatering

management plan, please contact Richard Meares, Water Regulation Officer on (02) 9865 2324, or by email to richard.meares@waterNSW.com.au.

The GTAs have been included in the recommendation.

NSW Heritage Office

The application was referred to the NSW Heritage Office for comment. The NSW Heritage Office has provided a section 60 approval pursuant to Section 63 of the Heritage Act 1977, subject to the following conditions included in the recommendation section of this report:

NSW Heritage Office S60 conditions

1. All work shall comply with the information contained within:
 - (a) GML Heritage Newmarket Historical Archaeological Assessment report prepared for Cbus Property Sydney Residential Pty Ltd, prepared by GML Heritage, dated March 2017, as listed in Condition no.1
 - (b) Newmarket Stables, Randwick, Archaeological Impact Assessment and Research Design, report prepared for Cbus Property Sydney Residential Pty Ltd prepared by GML Heritage dated September 2017
 - (c) Big Stable and Newmarket Conservation Management Plan, OCP Architects September 2016,
 - (d) Development Application Notice of Determination DA/662/2016, approved 8 August 2017 for Stage 2 Integrated Development Application for Infrastructure works comprising site enabling works including demolition, site remediation, removal of existing trees, subdivision and provision of civil and road infrastructure works including new internal roads, in-ground infrastructure and construction of a new public park (Heritage item).

EXCEPT AS AMENDED by the conditions of this approval:

2. HISTORICAL ARCHAEOLOGY
 - a. All works shall be in accordance with the approved research design and methodology outlined in 'Newmarket Stables, Randwick, Archaeological Impact Assessment and Research Design, report prepared for Cbus Property Sydney Residential Pty Ltd prepared by GML Heritage dated September 2017, except as amended by the following conditions:
 - b. This archaeological approval does not cover the removal of any State significant relics. This approval covers the archaeological testing and monitoring of works which may disturb or expose relics associated with the Big Stables Newmarket site, only.
 - c. Fieldwork
The Heritage Council of NSW or its Delegate must be informed in writing of the start of the archaeological investigation at least five (5) days prior to the commencement of, and within five (5) days of the completion of on-site archaeological work.
 - d. The Applicant must ensure that if substantial intact archaeological deposits and/or State significant relics not identified in 'GML Heritage Newmarket Historical Archaeological Assessment report prepared for Cbus Property Sydney Residential Pty Ltd, prepared by GML Heritage, dated March 2017, are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.
 - e. The Applicant must ensure that the nominated Excavation Directors, Dr Jennifer Jones, or Dr Tim Owen are present at the site supervising all excavation activity likely to expose relics.
 - f. The Applicant must ensure that the nominated Excavation Directors Dr. Jennifer Jones and Dr Tim Owen take adequate steps to record in detail relics, structures and features discovered on the site during the archaeological works in accordance with current best practice. This work must be undertaken in accordance with the NSW

- Heritage Office guidelines, 'How to Prepare Archival Records of Heritage Items' (1998) and 'Guidelines for Photographic Recording of Heritage Items' (2006).
- g. Analysis and Reporting
The Applicant is responsible for the safe-keeping of any relics recovered from the site. The Applicant must ensure that the nominated Excavation Directors, Dr Jennifer Jones, Dr Tim Owen or an appropriate specialist, cleans, stabilises, labels, analyses, catalogues and stores any artefacts recovered from the site in a way that allows them to be retrieved according to both type and provenance.
 - h. 500 word summary:
The Applicant must ensure that a summary of the results of the field work, up to 500 words in length, prepared by the approved Primary Excavation Director nominated in the section 60 form, Dr Jennifer Jones, is submitted to the Heritage Council of NSW for approval within one (1) month of completion of archaeological field work.
 - i. Final report:
The Applicant must ensure that a final excavation report is prepared by the nominated Excavation Directors, Dr Jennifer Jones and Dr Tim Owen, to publication standard, within one (1) year of the completion of the field based archaeological activity unless an extension of time or other variation is approved by the Heritage Council of NSW. Further copies of the report should be lodged with the local library and/or another appropriate local repository in the area in which the site is located.
 - j. Unexpected historical archaeological relics protection
The Applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.
Reason: Standard conditions to manage the approve change to significant historical archaeological resources identified within the SHR curtilage.
3. ABORIGINAL OBJECTS
Should any Aboriginal 'objects' be uncovered by the work, excavation or disturbance of the area is to stop immediately and the Office of Environment & Heritage is to be informed in accordance with Section 89A of the National Parks and Wildlife Act, 1974 (as amended). Works affecting Aboriginal 'objects' on the site must not continue until the Office of Environment and Heritage has been informed. Aboriginal 'objects' must be managed in accordance with the National Parks and Wildlife Act, 1974
Reason: To comply with legislation
 4. COMPLIANCE
If requested, the Applicant and nominated Heritage Consultant may be required to participate in audits of Heritage Council approvals to confirm compliance with conditions of consent.
Reason: To ensure completion of the works in accordance with the approved plans and to improve the approvals process through a better understanding of the implementation of conditions of approval.
 5. DURATION OF APPROVAL
This approval shall be void if the activity to which it refers is not substantially commenced within five years after the date of the approval, or within the period of consent specified in any relevant development consent granted under the Environmental Planning and Assessment Act 1979, whichever occurs first.
Reason: To comply with legislation.

The provisions of SEPP (State and Regional Development) 2011 apply to the proposed development as its capital investment value is in excess of \$20 million. In accordance with the requirements of the SEPP and Schedule 4A of the Environmental Planning and Assessment Act 1979, the submitted proposal is classified as 'regional development' with the determining authority for the application being the Sydney Central Planning Panel (SCPP).

State Environmental Planning Policy No. 55 – Remediation of Land

SEPP No. 55 aims to promote the remediation of contaminated land for the purposes of reducing the risk of harm to human health or any other aspect of the environment. Council's Environmental Health Officers have reviewed the development application and the site is suitable for its intended purpose subject to compliance with the remediation strategy adopted pursuant to the Concept approval and appropriate conditions included in the recommendation section of this report.

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

SEPP No. 65 aims to promote quality design of Residential Flat Buildings. The proposal is subject to the policy as it involves development of residential flat buildings being 3 storeys and more in height (see further below details of development subject to SEPP 65). The proposal has been considered by Council's Design Review Panel. The Panel's comments are included in Section 7. An assessment has been carried out in accordance with Part 3: Siting the Development and Part 4: Designing the Building of the Apartment Design Guide against the design criteria requirements. Any non-compliance to the design criteria includes a merits based assessment as per the design guidance of the Apartment Design Guide which is consistent with the planning circular issued by the Department of Planning and Environment (PS 17-001) dated 29 June 2017. Apart from the non-discretionary development standards³, the ADG is not intended to be, and should not be applied as, a set of strict development standards. The application has been amended on two occasions in response to the Design Excellence Panel and the plans submitted to Council on 30 January 2018 are the subject of primary assessment.

Development subject to SEPP 65

The parts of the development subject to SEPP 65 include:

- S1: five storey flat building located at the south eastern corner of Lot S1;
- S2: three storey flat building located at the eastern end of Lot S2 and
- S3: part four/seven storey wrap around flat building located in Lot S3

Clause	Requirement	Proposal	Compliance
Part 3: Siting the Development			
3A-1	Site Analysis		
	Each element in the Site Analysis Checklist should be addressed	S1 to S3: The submitted development application addresses each relevant section of the site analysis checklist.	Complies.
3B-1	Orientation		
	Buildings along the street frontage define the street, by facing it and incorporating direct access from the street	S1 to S3: all parts of the development address the street frontage and allow for direct access.	Complies.

Clause	Requirement	Proposal	Compliance
	Where the street frontage is to the east or west, rear buildings should be orientated to the north	All developments are generally orientated to the north or south.	Complies.
	Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west (see figure 3B.2)	The majority of buildings are orientated to the north and south and the proposed built forms north of neighbouring southern developments namely those in Lot S1 and S3 contain northern envelopes well below those permitted under the Concept plan approval. The proposed envelopes will achieve a better planning outcome regarding solar access.	Complies
3B-2	Orientation		
	Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access	<p>Good levels of solar access are provided to all communal and public open space parts of the development.</p> <p>The most susceptible areas to low levels of solar access are the ground level communal open spaces in Lot S3 and living areas and units in the part 4/part 7 storey apartment building.</p>	<p>Complies</p> <p>No see assessment below.</p>
<p>Comment:</p> <p>The 7 storey apartment building will have less than 70% of apartments receiving the minimum 2 hours of solar access. An assessment is carried out against the ADG design guidance which states that achieving the minimum design criteria, that is the minimum of 70% receiving at least 2hrs of solar access, and a maximum 15% not receiving the minimum 2 hours of solar access during the winter solstice, may not be possible on some sites in the following circumstances:</p> <ul style="list-style-type: none"> • where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source • on south facing sloping sites • where significant views are oriented away from the desired aspect for direct sunlight <p>The proposed development exhibits two of the three circumstances identified above in that there are substantial and open aspect views across the park opposite the site and the development is south facing. In addition to these site conditions, the concept approval allows for a building depth of 23.4m and the proposed development has a depth of 22.4m and requiring a shorter depth in order to achieve solar access to the south</p>			

Clause	Requirement	Proposal	Compliance
	facing apartments would be substantially less than that which is permitted or envisaged for the development in the concept plan. It is also important to note that the proposal seeks much lower developments north of the 7 storey RFB which has meant that there is more solar access to these apartments than that which would have been afforded by a development that was consistent with the concept plan envelope approvals.		
	Solar access to living rooms, balconies and private open spaces of neighbours should be considered	The proposed development will not result in any significant shadowing to the neighbouring properties, particularly not more than that which would have occurred by the envelopes approved as part of the concept plan approval.	Complies
	Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%	The proposed development does not result in less than two and three hours of solar access to the neighbouring properties which is consistent with the required levels of solar access for low and medium density development under the ADG and the local planning provisions in the Randwick Comprehensive Development Control Plan (RDCP).	Complies
	If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy	The proposed built forms will generally not exceed the building envelopes approved as part of the concept plan. As noted in the Clause 4.6 exception above, the parts of the development that exceed the maximum RLEP standards are located well within the site and largely a consequence of the shifting of the development further north.	Complies
	Overshadowing should be minimised to the south or downhill by increased upper level setbacks	The northern developments within lots S1 and S3 contain terrace style developments over two	Complies

Clause	Requirement	Proposal	Compliance
		and three storeys which are less bulk than that contained in the concept plan approval. This approach minimises overshadowing impact on development located south of these development namely to the 5 storey flat building at the southern end of Lot S1 and the 7 storey RFB ding in lot S3 and the five storey flat building in S1.	
	It is optimal to orientate buildings at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development		Complies
	A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings	The solar collectors on neighbouring buildings will not be reduced to less than 4 hours by the proposed development.	Complies.
3C-	Public Domain interface		
	Terraces, balconies and courtyard apartments should have direct street entry, where appropriate	Access has been streamlined particularly along the frontage of Lot S3.	Complies
	Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground level dwellings		Complies
	Upper level balconies and windows should overlook the public domain		Complies
	Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited to 1m	Walls are more than 1m above the footpath level for development at S1, S2 and S3 due to flood levels and splays being introduced to ensure sufficient safety.	Does not comply see comment below
Comment: – Flooding levels are generally considered to be sufficient justifications. The applicant has also made amendments to the frontages of the RFB's in S2 and S3 for the			

Clause	Requirement	Proposal	Compliance
	purposes of both safety and minimising the impacts of the walls along the front elevations. In particular, the front of the RFB in lot S2 has introduced a splay improving safety and minimising length of wall along Road ST3; the two entry ramps and stairs also minimise the length of walls along ST3; In relation to the RFB fronting road DV1, the walls along the southern elevation are the most prominent with a height of between 1.7m and 2.1m which is well in excess of the 1m maximum. The massing and dominance of these walls have been alleviated to a certain extent by setting back these walls from the eastern and western street frontages, whereby beyond the respective building lines these walls step down to 1m in height (with palisade fencing above) improving permeability and casual surveillance.		
	Length of solid walls should be limited along street frontages	See comment above	Complies
	In developments with multiple buildings and/or entries, pedestrian entries and spaces associated with individual buildings/entries should be differentiated to improve legibility for residents, using a number of the following design solutions: - architectural detailing - changes in materials - plant species - colours		Complies
	Opportunities for people to be concealed should be minimised		Complies and subject to conditions
3D-1	Communal and Public Open Space		
	Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)	<p>S1: Relative to the site containing the flat building and townhouses (excluding the attached nine three storey terraces to the north, the development) will have 317sqm of communal open space which equates to 21.8% of the site area (1450sqm).</p> <p>S2: 1 three storey apartment building containing 16 apartments. (Excluding the 4 x two storey terraces).</p> <p>S3: 25% provided combining the communal open space at ground level and roof level.</p>	<p>No, see comments below.</p> <p>No see comment below.</p> <p>Yes</p>
Comment:			

Clause	Requirement	Proposal	Compliance						
<p>S1: The communal open space provided for the five storey apartment building at the south eastern corner of S1 is considered to satisfy the ADG design guidance and is acceptable on merit for the following reasons:</p> <ul style="list-style-type: none">• The townhouses have substantial areas of private open space that are above those required under the ADG and• The communal open space area provided has suitable dimensions such that it provides an avenue for passive and active recreational use.• A public park to be dedicated to Council under a planning agreement is located in close proximity to the site and provides an avenue for more active recreational uses. <p>S2: There are no areas capable of accommodating communal open space within the approved concept plan except for the four metres rear setback and roof. This would impinge on the area of ground level courtyard spaces required for each of the ground level apartments. In addition, allocating communal open space on the roof top is also problematic in that it is susceptible to visual and acoustic impacts on neighbouring properties to the north and it also contains infrastructure and plant which benefits the environmentally sustainability of the development. In addition, the development contains a relatively low number of units and there are sufficient areas of open space in close proximity to the site namely the public park and Paine reserve that provide an avenue for both active and passive recreational use.</p>									
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)	<p>S1: No, only 19% of the site area receives direct sunlight access.</p> <p>S3: Yes – inclusive of the roof terrace which receives 100% solar access, the ground level between the terraces and the 7 storey RFB will receive solar access between 10am and 3pm.</p>	<p>Does not comply, however the east west orientation of site means that southern allotments containing areas of communal open space are vulnerable to overshadowing and largely unavoidable.</p> <p>Complies</p>						
3E-1	Deep Soil Zones								
	<p>Deep soil zones are to meet the following minimum requirements:</p> <table><tr><td>Site area</td><td>Minimum Dimensions</td><td>Deep Soil Zone (% of site area)</td></tr><tr><td><650m2</td><td>-</td><td>7%</td></tr></table>	Site area	Minimum Dimensions	Deep Soil Zone (% of site area)	<650m2	-	7%	<p>S1: 1450sqm, 12% deep soil provided.</p> <p>S2: S2.2 – RFB. Site area 1318sqm. Provides 18% deep soil</p> <p>S3: 9% of the site area is provided as deep soil area which is an</p>	<p>Does not comply, see comment below</p> <p>Yes</p> <p>Assessed under medium density table</p>
Site area	Minimum Dimensions	Deep Soil Zone (% of site area)							
<650m2	-	7%							

Clause	Requirement			Proposal	Compliance
	650-1500m2	3m		increase from the 6% provided in the original scheme.	
	>1500m2	6m			
	>1500m2 with sig. existing tree cover	6m			
	On some sites it may be possible to provide larger deep soil zones, depending on the site area and context: - 10% of the site as deep soil on sites with an area of 650m2 - 1,500m2 - 15% of the site as deep soil on sites greater than 1,500m2				
					Doesn't comply see as the minimum dimensions are required to be 6m and a substantial portion of the nominated deep soil is less than 6m in width. See comments below.
Comment:					
S1: The deep soil provided throughout Lot S1 is 15% based on minimum dimensions less than the required 6m minimum required. The design guidance indicates that the where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on					

Clause	Requirement	Proposal	Compliance												
	structures. In relation to stormwater council has imposed relevant conditions to ensure that the overland flow is appropriately managed on site and stormwater is retained on site for use throughout the site.														
	S3: The deep soil provided through Lot S3 is considered acceptable and meets the design guidance provided for in the ADG for the following reasons:														
	<ul style="list-style-type: none">• Lot S3 is approved for medium to high density residential flat buildings on site which requires certain levels of parking which can only be accommodated within basement level to which the proposed development complies with the number of spaces required subject to conditions.• The application includes a comprehensive landscape design scheme that both compliments the presentation of the development from street level and• The basement has been lowered in the centre courtyard to allow for the planting of trees in this area which will provide suitable amenity for the future residents.• The roof top communal open space whilst not counted as deep soil will contribute to the presentation of the development from surrounding properties.• Landscaping provided compliments both private and public linkages throughout the site contributing to connections between the two areas and light passage and movement throughout the varying scales of development.														
3F-1	Visual Privacy														
	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>>25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	>25m (9+ storeys)	12m	6m	<p>S1: 12.8m separation</p> <p>S2: S2.1: rear setback of 5.8m which exceeds the 4m required under the concept plan approval. The rear 1st floor level balconies are less than the 6m required under the ADG.</p> <p>S2.2: The rear of the apartment building is between 4.2m and 4.4m from the side boundary adjoining No. 26 Young Street and does not meet the minimum 6m setback required.</p> <p>S3: The ADG requires separation of 12m under the ADG. The apartment building varies between 9m and 12m.</p>	<p>Yes</p> <p>No see comments below.</p> <p>No see comments below</p>
Building height	Habitable rooms and balconies	Non-habitable rooms													
Up to 12m (4 storeys)	6m	3m													
Up to 25m (5-8 storeys)	9m	4.5m													
>25m (9+ storeys)	12m	6m													
Planning comment:															
S2.1: The first floor level balconies are considered acceptable in terms of separation from No. 26 Young Street as they have an outlook onto the roof of an outbuilding on the															

Clause	Requirement	Proposal	Compliance
	adjoining property. Notwithstanding, the attached dwellings do not lend themselves to inordinate privacy impacts on the neighbouring property as they are attached to low use rooms.		
S2.2:	A rear setback of 4m is provided from the north facing balconies which complies with the concept plan approval however it is short of the 6m required under the ADG. The parts of the neighbouring property at No. 26 Young Street most susceptible to privacy impacts is a 10m stretch of rear yard aligning with several first floor level balconies of the apartment building. Specifically, the balcony of first floor 2 bedroom unit S2-203 and parts of balconies attached to two units on either side of the above balcony. They comprise a first floor single bed unit (S2-202) and first floor two bedroom unit (S2-204) on either side of the unit S2-203 will be located within 6m of the rear yard of No. 26 Young Street.		
	In accordance with the design guidance, the scheme includes measures that minimise adverse privacy impacts such as 1.3m high balustrades minimising overlooking from a sitting position. The internal living spaces are also more than 6m from the rear providing sufficient separation. In relation to the standard position on the balcony, the only part of the neighbour’s rear yard that is within 6m is a small portion of the neighbour’s rear yard. This is not considered to result in any significant privacy concerns given that it is limited to a standing position which reduces the time that would be spent in this position.		
S3.2:	The components of the building less than 12m from the rear of the townhouses opposite. The majority of separation at first floor level is only marginally short of the minimum and where there is a separation of around 9m between the northern elevation of the 7 storey apartment building and the townhouses opposite the townhouses have been designed with adequate privacy measures including:		
	<ul style="list-style-type: none">• Openings attached to bathrooms which will have their own privacy measures;• Balconies that are small in depth and primarily aimed at achieving cross ventilation with entries facing the side elevations;• The five townhouses within the 12m separation have been designed with internal courtyards located more than 12m from the balconies and internal spaces of apartments within the 7 storey RFB.		
S3.2:	visual privacy between level 4 2-B Corner units is in very close proximity to the communal roof terrace. In order to assist with privacy protection of this unit a condition is included requiring a 1.4m high planter box with a depth of 1.5m to be located at the northern side of apartment 405 (2-B corner apartment) which is to wrap around the eastern side of the apartment for a length of 8.4m. The planter box shall contain perennial species to a minimum height of 1.7m above the communal roof terrace floor level. The maintenance of planting within the planter box shall be included in the plan of management for the site.		
Part 4: Designing the Building			
4A	Solar and Daylight Access		
	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.	S1: 81% of units will receive a minimum of two hours of direct solar access to the living rooms and private open spaces within the two building blocks. S2:	Complies. Complies

Clause	Requirement	Proposal	Compliance
		S3: 66% of dwellings receive 2 hours of direct sun between 9am and 3pm at midwinter;	No see comments below;
<p>Comment:</p> <p>S3: The proposal as amended increases the number of apartments receiving solar access from 61% to 66% however it continues to not meet the 70% minimum proportion of apartments required to have a minimum of 2hr solar access during mid-winter. Despite this, the design guidance provided in the ADG identifies certain circumstances where receiving the minimum 2 hours of solar access during the winter solstice may not be possible under some circumstances. Specifically, where the site is south facing and where significant views are oriented away from the desired aspect for direct sunlight. The development of the 7 storey building in Lot S3 meets contains these circumstances and as such it is considered that the proposed development satisfies the design guidance. It is also noted that all apartments as part of the amended scheme to achieve articulation and slots within the built form achieve dual-aspects maximising daylight and the depth of apartments are generally compliant with the maximums in the ADG.</p>			
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	<p>S1.1: 6.25% (one apartment building)</p> <p>Townhouses: 25% (1/4).</p> <p>S2: Nil</p> <p>S3: 13% of apartments receive no direct sunlight.</p>	<p>Complies</p> <p>Does not comply, see assessment in part C2 table further below.</p> <p>Complies</p> <p>Complies</p>
<p>Comment:</p> <p>S1: One out of the four townhouses don't receive solar access which doesn't comply with the maximum 15% design criteria applied under the ADG. This townhouses is south facing and has a view across the park and adjoins townhouses on the west and a five storey apartment building to the east. The capacity to provide solar access to this apartment is somewhat limited by the north-south orientation of the site and east-west orientation of the street pattern. In addition, the depth of the flat building and the townhouses preclude the ability to be able to provide a townhouse of one depth as it would significantly exceed the maximum depth permitted for the purposes of cross ventilation.</p>			
4B	Natural Ventilation		
	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	<p>S1: 95% (20/21) only one apartment</p> <p>S2: 75% (12/16) for both apartments and terraces</p> <p>S3: 75% (91/122) of apartments are naturally cross ventilated</p>	<p>Complies.</p> <p>Complies</p> <p>Complies</p>
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line		Complies

Clause	Requirement	Proposal	Compliance												
4C	Ceiling Heights														
	<div>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</div> <table><tr><td colspan="2">Minimum Ceiling height for apartment and mixed use buildings</td></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor; 2.4m for second floor where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use.</td></tr></table> <div>These minimums do not preclude higher ceilings if desired.</div>	Minimum Ceiling height for apartment and mixed use buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor; 2.4m for second floor where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use.	The apartments will achieve the minimum floor to ceiling height of 2.7 metres	<div>Complies.</div> <div>It is noted that the R1 zone permits commercial uses however the buildings are designed for the purposes of residential premises. Notwithstanding, it is considered that the elevated nature of ground level provides a solid affords a similar street presentation that would be afforded by a development that had a higher floor to ceiling height as viewed from the footpath level.</div>
Minimum Ceiling height for apartment and mixed use buildings															
Habitable rooms	2.7m														
Non-habitable	2.4m														
For 2 storey apartments	2.7m for main living area floor; 2.4m for second floor where its area does not exceed 50% of the apartment area														
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope														
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use.														
4D	Apartment Size and Layout														
	<div>Apartments are required to have the following minimum internal areas:</div> <table><tr><td>Apartment Type</td><td>Minimum Internal Area</td></tr><tr><td>Studio</td><td>35m2</td></tr><tr><td>1 bedroom</td><td>50m2</td></tr><tr><td>2 bedroom</td><td>70m2</td></tr><tr><td>3bedroom</td><td>90m2</td></tr></table> <div>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m2each</div> <div>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m2 each.</div>	Apartment Type	Minimum Internal Area	Studio	35m2	1 bedroom	50m2	2 bedroom	70m2	3bedroom	90m2	<div>S1</div> <div>S2</div> <div>S3</div>	<div>Complies</div> <div>Complies</div> <div>Complies</div>		
Apartment Type	Minimum Internal Area														
Studio	35m2														
1 bedroom	50m2														
2 bedroom	70m2														
3bedroom	90m2														
	Every habitable room must have a window in an external wall with	All habitable rooms comprise of a window	Complies.												

Clause	Requirement	Proposal	Compliance			
	a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	opening and will not comprise with less than 10% of the floor area of the room.				
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Complies.	Complies.			
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Open plan layouts are predominately located within 8 metres of a habitable room window with minor variations to some apartments located within S3.2. The variations amount to approximately 500mm with a depth of 8.5m which is considered negligible and will not result in any appreciable loss of amenity	See comment at left.			
	Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space)		Complies			
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)		Complies.			
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none">3.6m for studio and 1 bedroom apartments4m for 2 and 3 bedroom apartments	There are some minor non-compliant living rooms for two bedroom apartment in building S3.2 and S3.3 not meeting the minimum 4m dimension required for 2 bedroom apartments. These measure 3.95m.	Acceptable on merit given their configuration allows for a functional spaces and where the shortfall is related to a narrow length apartment the shortfall is very minor.			
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	As noted above the shortfalls are minor and well below the 18m length criteria in other parts of the ADG.	Minor shortfalls do not lend themselves to any significant shortfall in amenity.			
4E	Private open space and balconies					
	All apartments are required to have primary balconies as follows: <table><tr><td>Dwelling Type</td><td>Minimum Area</td><td>Minimum Depth</td></tr></table>	Dwelling Type	Minimum Area	Minimum Depth	All apartments have direct access to a private open space in the form of a balcony and will comply with the minimum area and depth requirements to	Complies.
Dwelling Type	Minimum Area	Minimum Depth				

Clause	Requirement			Proposal	Compliance
	Studio Apt.	4m2	-	provide a reasonable level of amenity to the occupants.	
	1 bed Apt.	8m2	2m		
	2 bed Apt.	10m2	2m		
	3+ bed Apt.	12m2	2.4m		
	The minimum balcony depth to be counted as contributing to the balcony area is 1m.				
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m			Ground level apartments have sufficient space for use as POS.	Complies.
4F	Common Circulation and Spaces				
	The maximum number of apartments off a circulation core on a single level is eight				Complies.
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40				Not applicable.
4G	Storage				
	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:				Complies in totem
	Dwelling Type	Storage Size Volume			
	Studio	4m3			
	1 bedroom	6m3			
	2 bedroom	8m3			
	3bedroom	10m3			
	At least 50% of the required storage is to be located within the apartment				

State Environmental Planning Policy (Affordable Rental Housing) 2009

Secondary (Studio) dwellings in Lot S1

The attached terraces located within S1 require assessment against the provisions of the ARSEPP as the studios located above the garages used for the primary dwelling are defined as secondary dwellings. Having regard to the relevant provisions of the ARSEPP the proposed secondary dwellings will satisfy the majority of the requirements set out under Clause 22 except for the provision of Private open space whereby it falls short of the minimum required under the ARSEPP. The shortfall is not fatal to the application in that the rear yard of the attached terraces measures over 40sqm which is more than capable of accommodating simultaneous use of the rear yard for private open space purposes. It is also considered that the provision of first floor studios above garages will be consistent with the form of development along laneways within the wider Randwick Local Government Area (RLGA). It is also important to consider that the secondary dwelling is not able to be

subdivided and that this type of housing allows for rental accommodation or to accommodate family members, contributing to housing diversity and choice in the RLGA.

State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004

SEPP: BASIX applies to the proposed development. The development application is accompanied with a BASIX Certificate.

8.5 Randwick Local Environmental Plan 2012:

The subject site is zoned B1 Neighbourhood Centre under the Randwick Local Environmental Plan 2012. The proposal is permissible in the zone with Council's consent. The proposed development will promote the aims of the LEP in relation to the aesthetic character, sustainability, environmental qualities and social amenity of the locality. The proposal is consistent with the specific zone objectives as discussed in the Clause 4.6 assessment.

6.16 Special provision—land at Young Street Randwick

- (1) This clause applies to land at Young Street, Randwick, shown as Area 1 on the [Key Sites Map](#).
- (2) Despite clause 4.5 (3), but subject to the other provisions of clause 4.5, the land to which this clause applies is taken to be a single site area for the purposes of applying a floor space ratio.
- (3) The consent authority may approve development with a floor space ratio of up to 1.3:1 on the land to which this clause applies but only if the consent authority is satisfied that:
 - (a) a part of the land will be used for recreational purposes, and
 - (b) that part will be contiguous and will have an area of at least 5,000m², and
 - (c) the configuration and location of that part will be appropriate for those recreational purposes.

The Concept Plan approval has addressed the above provision by providing the public reserve in accordance with the above criteria.

In terms of floor space, this application is the fourth to provide buildings on the site, it will represent an FSR of 1.024:1 which in addition to the 0.24:1 for previous developments (reference DA/664/2016) will provided a total FSR of 1.26:1 and will comply with the maximum FSR of 1.3:1 for the overall site.

Policy Controls

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

- **Randwick Comprehensive Development Control Plan 2013 & Newmarket Green Randwick DCP**

This DCP provides detailed guidance for development applications (DAs) to supplement the provisions of the Randwick Comprehensive Local Environmental Plan (RLEP). The DCP includes objectives and controls for ensuring well designed, quality land use and development within the Local Government Area (LGA) to enhance Randwick City as a vibrant community and desirable place to live, work and visit. The Newmarket Green DCP was prepared for the purpose of supplementing the Randwick Comprehensive DCP and to set site specific controls for the subject site. As such it represents the primary considerations in the assessment of any applications given they are particular to the site and it was derived from the planning proposal. The subsequent Concept Plan approval that

was granted addressed the provisions of the site specific DCP and provides for another layer of specificity in terms of the site's urban structure and resultant built form. The proposed development is consistent with the terms of the Concept Plan approval.

In relation to the considerations that remain in the Randwick DCP that are relevant to the subject DA, the provisions relating to adaptable housing and medium density residential remain relevant to the proposal. The provisions for adaptable dwellings have been incorporated into the proposal and meet the objective of ensuring that a suitable proportion of dwellings include layouts and design features to accommodate changing mobility requirements of residents

In relation to Part C2 of the RDCP relating to medium Density residential development, the table below contains an assessment against the relevant provisions for the terrace multi-unit dwellings located within S1, S2 and S3 as follows:

- S1: 9 x 4 bedroom attached dwellings with secondary dwelling above the garage
- S2: 4 x 3 bedroom attached dwellings
- S3: 11 x 3 bedroom attached dwellings (re-configured to allow for two visual connection points between the attached dwellings through to the communal open space behind).

Medium Density Residential – Part C2 of the Randwick Comprehensive Development Control Plan (RDCP) 2013

B7	Transport, Traffic, Parking and Access		
3.	Parking & Service Delivery Requirements		
	Car parking requirements: 1space per 2 studios 1 space per 1-bedroom unit (over 40m ²) 1.2 spaces per 2-bedroom unit 1.5 spaces per 3- or more bedroom unit 1 visitor space per 4 dwellings	<p>S1: 2 spaces for each terrace. No parking is required for the secondary dwelling above the garage as per ARSEPP</p> <p>S2: One parking space is provided whereas two are required.</p> <p>S3: Basement parking</p>	<p>Complies</p> <p>Does not comply – Acceptable as per Development Engineers comments in the referral section.</p> <p>Complies</p>
C2	Medium Density Residential		
2	Site Planning		
2.1	Site Layout Options Site layout and location of buildings must be based on a detailed site analysis and have regard to the site planning guidelines.	The provision of attached dwellings provides housing choice in a medium density form which is consistent with the concept plan approval and achieves a good planning outcome having regard to the neighbouring elements as comments below:	Yes

		<p>S1: attached dwellings at the northern part of Lot S1 both improves solar access to the southern built forms in the site comprising the 5 storey flat building and townhouses and also the western adjoining properties fronting Botany Street which are located in the R2 low density zone.</p> <p>S2: Two storey attached dwellings in this part of the site are consistent with the concept plan. Providing one storey less than the three approved in the concept plan achieves a better transition down to the northern neighbour's property at No. 19 Jane Street a single dwelling located in the R2 low density residential zone.</p> <p>S3: Two storey attached dwellings in in the northern part of the S3 site both improves solar access to the apartments located within the 7 storey RFB behind and achieves a consistent relationship with the two storey attached dwellings and three storey flat building opposite in Lot S2.</p>	
2.2	Landscaped open space and deep soil area		
2.2.1	Landscaped open space		
	A minimum of 50% of the site area is to be landscaped open space.	<p>S1: 42.5% of the site (1930sqm) is landscaped area</p> <p>S2: 42.7% of the site (764sqm) is landscaped area</p>	No, see comments below

		S3: 49.4% of the site is landscaped (2,060.9sqm taken from the boundary fronting Road ST3 and the accessible rear communal open space)	
<p>Comment: The attached dwellings do not meet the 50% minimum required under the RDCP however when compared with the concept plan approval each of the developments in question take up considerably less site coverage than that shown on the concept plan approval. Notwithstanding, the key consideration is whether the landscaping provided within each allotments is consistent with the concept plan approval and whether the proposed landscaping provided on each allotment containing the attached dwellings satisfies the associated objectives under Part C2 of the Medium Density Residential part of the RDCP 2013.</p> <ul style="list-style-type: none"> <i>To provide landscaped open space of sufficient size to enable the space to be used for recreational activities, or be capable of growing substantial vegetation.</i> <i>To reduce impermeable surface cover including hard paving</i> <i>To improve stormwater quality and reduce quantity.</i> <i>To improve the amenity of open space with landscaped design.</i> <p>Having regard to the above objectives each of the allotments containing the attached medium density forms of development the proposed landscaping provided throughout the sites will satisfy the above objectives for the following reasons:</p> <ul style="list-style-type: none"> Landscaped open space areas throughout are capable of growing substantial vegetation that will both provide suitable areas of open space for each attached dwelling ensuring suitable amenity for the future occupants. In relation to the streetscape interface, the application includes a landscape report that considers the streetscape interface for each allotment ensuring a generally consistent approach. It is noted that the site is subject to flooding and requires site levels higher than the footpath along various frontages namely lots S1 and S3. S1 contains a 900mm wide planters across the front of the attached dwellings whereby they are capable of accommodating sufficient planting which will contribute to the streetscape interface. However, the planter boxes across the front of the attached dwellings along Lot S3 measure only 500mm in width which is considered insufficient in relation to providing a depth of landscaping elements along this frontage. It is recommended that a condition be included requiring the planter boxes at the front of the attached dwellings fronting Road ST3 in Lot S1 be increased to a minimum depth of 900mm. This condition requires the front setback of townhouses 5 to 9 to be increased by 400mm to ensure a minimum 2m depth for the front terrace and a commensurate reduction in the front terrace to townhouses 1 to 4, 10 and 11. Subject to the above conditions it is considered that the landscaping associated with the attached dwellings will be well integrated into the access points of each of the subject sites and will be capable of accommodating suitable depth such that it will contribute to the streetscape character along the new road network. Permeable landscaping provided on site is considered suitable as discussed in the ADG table above. The stormwater quality and quantity forms part of a comprehensive plan for the site that also considers the provision of stormwater to the Community organic garden located within Paine Reserve. 			
2.2.2	Deep soil area		

	(i) A minimum of 25% of the site area (m2) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.		See assessment in ADG table.
	(ii) Deep soil areas must be located at ground level, be permeable, capable for the growth of vegetation and large trees and must not be built upon, occupied by spa or swimming pools or covered by impervious surfaces such as concrete, decks, terraces, outbuildings or other structures.	S1 S2 S3	Yes Yes Acceptable design and conditions
	(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understory planting.		Yes
	(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.		See comment above.
	(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.		Yes
Across the whole of the site area of S2.1 51.2% of the site is open space and 15.7% is provided as deep soil and does not comply with the deep soil required in this part of the DCP. Decking is not counted towards deep soil permeable surfaces, however a large portion of the rear yards and front of these attached dwellings contain decking, which is required due to level changes and connectivity. The decking will permit water infiltration to the soil below in conjunction with other permeable landscaped areas. If these areas were counted then it would mean a total of 25.8% of the site would be deep soil.			
2.3	Private and communal open space		
2.3.1	Private open space		
	Private open space is to be: (i) Directly accessible from the living area of the dwelling. (ii) Open to a northerly aspect where possible so as to maximise solar access. (iii) Be designed to provide adequate privacy for residents and where possible can also contribute to passive surveillance of common areas. (iv) Minimum of 20sqm each attached dwelling (v) 3m x 4m minimum	Each of the developments contains suitable areas of private open space for each of the attached dwellings. Each areas of private open space is capable of received good amounts of solar access. In relation to the attached dwellings in Lot S3, there are limitations to the amount of solar access due to the orientation of the site however the design of the development	Yes

		ensures that there will be suitable solar access to the front terraces and the mid terraces will be able to provide good levels of daylight and some solar access and privacy protection.	
3	Building Envelope		
3.4	Setbacks		
3.4.1	Front setback (i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries. (ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis. (iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings. (iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.	The setbacks are generally consistent with the setbacks approved under the concept plan.	Yes
3.4.2	Side setback		
	<p>Required to comply with the side setback controls under Part C1 of the RDCP for low density residential dwellings.</p> <p>For properties with frontages less than 6m they require a merit assessment of the side setback.</p> <p>The two terraces at either end T1 at the eastern end and T4 at the western end the minimum side setback control is on merit assessment. It is noted that the minimum side setback control for a wider site is only 900mm, yet the proposed end sites have a greater 1m side setback</p>	<p>S1: generous setbacks are provided at either end of the attached dwellings.</p> <p>S2: 3m to the west and 900mm to the east. 11m setback from the three storey RFB to the east.</p> <p>S3: 3m from the west (note terrace is only 790mm above footpath level. Nil setback from the western side boundary</p>	<p>Yes</p> <p>Yes</p> <p>Yes. The nil eastern side setback is acceptable as it would serve no purpose to provide a</p>

		<p>adjoining the four storey flat building.</p> <p>The end sites are less than 9m wide. A 1000mm side setback is provided from the western side of terrace 4 and eastern side of terrace 1.</p>	<p>setback from the adjoining four storey flat building. Moreover, two visual links have been provided in between the attached dwellings breaking up the built form along the ST3 road frontage.</p>
3.4.3	Rear setback		
	<p>For residential flat buildings, provide a minimum rear setback of 25% of allotment depth or 8m, whichever is the lesser.</p>	<p>S1: The rear setback to the laneway to the west is consistent with the concept plan approval</p> <p>S2: The rear setbacks to No. 19 Jane Street are consistent with the concept plan approval.</p> <p>S3: The rear setbacks of the attached dwellings are between 9 and 12 from the rear of the 7 storey RFB which is short of the 12m in the concept plan approval.</p>	<p>See comment at left.</p> <p>See comment at left</p> <p>See discussion in ADG table above. In short the rear setback provided will satisfy the objectives in the RDCP which seek to ensure adequate separation for visual and acoustic privacy, solar access, air circulation and views and reserve contiguous areas for the retention or creation of open space and deep soil planting.</p>
4	Building Design		
4.1	Building façade		
	<p>(i) Buildings must be designed to address all street and laneway frontages.</p> <p>(ii) Buildings must be oriented so that the front wall alignments are parallel with the street</p>		<p>Yes</p> <p>Yes</p>

	<p>property boundary or the street layout.</p> <p>(iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street.</p> <p>(iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes.</p> <p>(vi) Conceal building services and pipes within the balcony slabs.</p>		<p>Yes</p> <p>Yes</p> <p>Yes</p>
4.2	Roof design		
	<p>(i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three dimensional form (size and scale) and façade composition of the building.</p> <p>(ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access.</p> <p>(iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape.</p> <p>(iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms.</p> <p>(v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size and configuration of clerestory windows and skylights must be sympathetic to the overall design of the building and the streetscape.</p> <p>(vi) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if: -There are no direct sightlines to the habitable room windows and private and</p>	<p>Stepped in elevations voids unrelieved massing.</p> <p>S1: Skylight provided for main dwelling;</p> <p>S2: Skylight to large void</p> <p>S3: Clerestory to first floor study;</p> <p>S1: Roof terrace attached to bedroom</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	<p>communal open space of the adjoining residences.</p> <ul style="list-style-type: none"> -The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences. -Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street. -Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building. 		
4.3	Habitable roof space		
	<p>Habitable roof space may be considered, provided it meets the following:</p> <ul style="list-style-type: none"> - Optimises dwelling mix and layout, and assists to achieve dual aspect or cross over units with good natural ventilation. - Has a maximum floor space of 65% of the storey immediately below. - Wholly contain habitable areas within the roof space. - When viewed from the surrounding public and private domain, the roof form has the appearance of a roof. A continuous flat roof with habitable space within it will not satisfy this requirement. - Design windows to habitable roof space as an integrated element of the roof. - Submit computer generated perspectives or photomontages showing the front and rear elevations of the development. 	S1	Yes
4.4	External wall height and ceiling height		
	(ii) Where the site is subject to a 9.5m building height limit under the LEP, a maximum external wall height of 8m applies.		Yes within the heights of the approved concept plan.
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	2.7m	Yes
4.5	Pedestrian Entry		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.		Yes

	<p>(ii) Present new development to the street in the following manner:</p> <ul style="list-style-type: none"> - Locate building entries so that they relate to the pedestrian access network and desired lines. - Design the entry as a clearly identifiable element in the façade composition. - Integrate pedestrian access ramps into the overall building and landscape design. - For residential flat buildings, provide direct entries to the individual dwellings within a development from the street where possible. - Design mailboxes so that they are convenient to residents, do not clutter the appearance of the development at street frontage and are preferably integrated into a wall adjacent to the primary entry (and at 90 degrees to the street rather than along the front boundary). 		Yes
4.6	Internal circulation		
	<p>(i) Enhance the amenity and safety of circulation spaces by:</p> <ul style="list-style-type: none"> - Providing natural lighting and ventilation where possible. - Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors. - Allowing adequate space for the movement of furniture. - Minimising corridor lengths to give short, clear sightlines. - Avoiding tight corners. - Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor. 	Natural light is maximized for each attached dwelling taking into account the orientation.	Yes
4.9	Colours, materials and finishes		
	<p>(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans.</p>	Mixture of materials and articulations ensure the developments create	Yes

	<p>(ii) The selection of colour and material palette must complement the character and style of the building.</p> <p>(iv) Use the following measures to complement façade articulation:</p> <ul style="list-style-type: none"> - Changes of colours and surface texture - Inclusion of lightweight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. <p>(v) Avoid the following materials or treatment:</p> <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts <p>(vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration.</p> <p>(vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.</p>	visual interest and contribute to the streetscape character.	
	<p>Retaining walls</p> <p>(iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries.</p> <p>(v) Step retaining walls in response to the natural landform to avoid creating monolithic structures visible from the neighbouring properties and the public domain.</p> <p>(vi) Where it is necessary to construct retaining walls at less than 900mm from the side or rear boundary due to site conditions, retaining walls must be stepped with each section not exceeding a</p>		Yes – see comments in the ADG table above.

	maximum height of 2200mm, as measured from the ground level (existing).		
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access for proposed development		
	(i) Dwellings must receive a minimum of 3 hours sunlight in living areas and to at least 50% of the private open space between 8am and 4pm on 21 June.		Yes for S1 and S2; S3: No, however this is largely a consequence of the sites orientation rather than inappropriate design. The proposal includes terrace areas at the front which will receive a minimum of three hours of direct sunlight during the winter solstice.
	(iv) Any variations from the minimum standard due to site constraints and orientation must demonstrate how solar access and energy efficiency is maximised.		See comments above.
	Solar access for surrounding development		
	(i) Living areas of neighbouring dwellings must receive a minimum of 3 hours access to direct sunlight to a part of a window between 8am and 4pm on 21 June. (ii) At least 50% of the landscaped areas of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight to a part of a window between 8am and 4pm on 21 June. (iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.	The proposal does not result in any unreasonable increase in shadowing the neighbouring properties.	Yes
5.2	Natural ventilation and energy efficiency		
	(i) Provide daylight to internalised areas within each dwelling and		Yes

	any poorly lit habitable rooms via measures such as ventilated skylights, clerestory windows, fanlights above doorways and highlight windows in internal partition walls.		
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.		Yes
	(iii) All habitable rooms must incorporate windows opening to outdoor areas. The sole reliance on skylight or clerestory windows for natural lighting and ventilation is not acceptable.		Yes
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.		Acceptable
5.3	Visual privacy		
	<p>(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings.</p> <p>(ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences.</p> <p>(iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance.</p> <p>(iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy.</p> <p>(v) Incorporate materials and design of privacy screens including:</p> <ul style="list-style-type: none"> - Translucent glazing - Fixed timber or metal slats - Fixed vertical louvres with the individual blades oriented away from the private open space or 	<p>S1: All attached dwellings are suitably orientated for the purposes of visual privacy.</p> <p>S2: first floor balconies to attached dwellings S2-07 and S2-08 (at the western half of the attached dwellings) are located opposite and within 6m of the rear yard of No. 19 Jane Street and will overlook their rear yard.</p>	<p>Yes</p> <p>A condition is included requiring the balustrades to be increased to minimum height of 1.3m above floor level. The landscaping along the rear boundary will provide a secondary privacy buffer.</p>

	<p>windows of the adjacent dwellings</p> <ul style="list-style-type: none"> - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 		
5.4	Acoustic privacy		
	<ul style="list-style-type: none"> (i) Design the building and layout to minimise transmission of noise between buildings and dwellings. (ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities. (iii) Utilise appropriate measures to maximise acoustic privacy such as: <ul style="list-style-type: none"> - Double glazing - Operable screened balconies - Walls to courtyards - Sealing of entry doors 		Yes
5.5	View sharing		
	<ul style="list-style-type: none"> (i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings. (ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views from the living areas should be given a priority over those obtained from the bedrooms and non-habitable rooms. (iii) Where a design causes conflicts between retaining views for the public domain and private properties, priority must be given to view retention for the public domain. (iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain. (v) Adopt a balanced approach to privacy protection and view sharing, and avoid the creation of long and massive 	<p>It isn't anticipated that there will be any significant loss of valuable views. It is noted that the development displays a high level of compliance with the relevant concept approval and where there are variations such as the height of the buildings these are minor variations they are largely integrated elements and indiscernible.</p>	

	blade walls or screens that obstruct views from the neighbouring dwellings and the public domain. (vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.		
5.6	Safety and security		
	(i) Design buildings and spaces for safe and secure access to and within the development.		Yes
	(iii) For attached dwellings single garages are permissible where they are recessed behind the front façade		Yes
	(iv) Design window and door placement and operation to enable ventilation throughout the day and night without compromising security. The provision of natural ventilation to the interior space via balcony doors only, is deemed insufficient.		Yes
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.		Conditioned
7	Fencing and Ancillary Development		
7.1	Fencing		
	(i) Fences are constructed with durable materials that are suitable for their purpose and can properly withstand wear and tear and natural weathering. (ii) Sandstone fencing must not be rendered and painted. (iii) The following materials must not be used in fences: - Steel post and chain wire - Barbed wire or other dangerous materials (i) Expansive surfaces of blank rendered masonry to street frontages must be avoided.		Yes
7.2	Front Fencing		
	(i) The fence must align with the front property boundary or the predominant fence setback line along the street.		Yes
	(ii) The maximum height of front fencing is limited to 1200mm, as measured from the footpath level, with the solid portion not		Yes on merit

	exceeding 600mm, except for piers. The maximum height of front fencing may be increased to 1800mm, provided the upper two-thirds are partially open, except for piers.		
7.3	Side and Rear Fencing		
	<p>(i) The maximum height of side, rear or common boundary fences is limited to 1800mm, as measured from the ground level (existing). For sloping sites, the fence must be stepped to follow the topography of the land, with each step not exceeding 2200mm above ground level (existing).</p> <p>(ii) In the scenario where there is significant level difference between the subject and adjoining allotments, the fencing height will be considered on merits.</p> <p>(iii) The side fence must be tapered down to match the height of the front fence once pasts the front façade alignment.</p> <p>(iv) Side or common boundary fences must be finished or treated on both sides.</p>		Conditioned
7.6	Storage		
	<p>(i) The design of development must provide for readily accessible and separately contained storage areas for each dwelling.</p> <p>(ii) In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <p>(a) 2-bedroom– 8m3</p> <p>(a) 3 plus bedroom – 10m3</p>		Yes
7.7	Laundry facilities		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.		Yes
	(ii) Provide internal laundry for each dwelling unit.		Yes

• **Randwick City Council Section 94A Development Contributions Plan.**

A suitable condition is included requiring the payment of a S94A contribution in accordance with the requirements of Council's plan.

9. Environmental Assessment

Section 79C 'Matters for Consideration'	Comments
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	N/A.
Section 79C(1)(a)(iii) – Provisions of any development control plan	Refer to the "Policy Control" section of this report above for details.
Section 79C(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	The proposal is subject to a voluntary planning agreement which provides a 1.5% contribution of affordable housing and the transfer of the Big Stable and its curtilage to Council, dedication of a public park and roads as well as a contribution towards traffic calming. The proposal is consistent with the terms of the VPA.
Section 79C(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Environmental Planning and Assessment Regulation 2000 have been addressed by the recommended conditions.
Section 79C(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in the body of this report.</p> <p>In terms of social and economic impacts, the proposal will increase the availability of housing and would bring a mixed demographic of single persons or share households; younger couples and "empty nester" households as well as young families. It is likely that there will be a mix of incomes amongst residents with some units being owner occupied and others being rented. The added population will generate additional needs for businesses, employees and patrons which will in turn encourage the location of services and facilities into the area.</p>
Section 79C(1)(c) – The suitability of the site for the development	The subject site is located within an established suburban area and has convenient access to the local and regional road network, public transport, social infrastructure and services. The site has an appropriate size and configuration and is considered to be suitable for the proposed development.
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	Submissions have been addressed in the body of this report
Section 79C(1)(e) – The public interest	The proposal will not result in any unreasonable or unacceptable ecological, social or economic impacts on the locality.

Section 79C 'Matters for Consideration'	Comments
	Therefore, the development is considered to be in the public interest.

11.0 Relationship to City Plan

The relationship with the City Plan is as follows:

Outcome 4: Excellence in urban design.
Direction 4a: Improved design and sustainability across all development.

Conclusion

The clause 4.6 exception lodged with respect to the non-compliance with the maximum height standard is considered to be well founded in the circumstances. In terms of assessing whether the development application is inconsistent with the concept plan approval it is considered that the development is not antipathetic to the concept plan approval and the DA as submitted allows for a finer detailed assessment as intended by the Act. The proposal re-distributes floor areas across the southern precinct whilst not shown in the concept plan approval, the additional floor areas are minor and have been substantially complemented by reductions in the floor area in other parts of the development. This re-distribution of floor area is considered to achieve a good planning outcome. In this respect, the proposed distribution of floor area provides a medium density form of development that is more compatible with and transitions more appropriately down to low density residential areas along Botany Street, and other developments located within the Lot S1 and S3. This distribution of floor area provides for greater levels of solar amenity for future occupants of the development, and a general improvement in the spatial setting of the development as a whole. In addition, and as indicated in the Clause 4.6 variation to the height of buildings standard in the RLEP, the mechanism by which variations to standards may be supported subject to a well-founded planning arguments, the exceedance of the height of buildings standard is supported on the basis that it achieves greater separation from the open space along Paine Reserve, and Rainbow Public School. The increased width of the road also provides a greater view through to the Big Stable (a heritage item) and reduces the demand for on-street parking.

Overall, the development proposes a built form and spatial relationship with the public domain that will contribute to the existing and desired future character of the area and will satisfy the relevant assessment criteria contained within the Act, its Regulations and applicable policy guidelines contained within SEPP 65, RLEP 2012, RDCP 2013, the Concept Plan approval and other relevant instruments. The proposal will also not result in any significant or unreasonable adverse impacts on surrounding properties and the non-compliances with statutory and policy controls will not exacerbate impacts in an unacceptable manner.

The application is therefore recommended for approval subject to conditions.

Recommendation

That the Sydney Central Regional Planning Panel, as the consent authority, grants development consent under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/88/2017 for development of Southern Precinct of "Newmarket Randwick" site including demolition of existing buildings and structures; on Lot S1 construction of a five storey residential flat building containing 17 dwellings, basement carparking, 9 three storey multi attached dwelling units and parking for 40 vehicles: on Lot S2 construction of a three storey residential flat building containing 16 dwellings, basement carparking, 4 two storey multi-unit dwelling units and parking for 24 vehicles: on Lot S3 construction of a part 4/part7

storey residential flat building containing 112 dwellings, basement carparking, 12 two storey multi dwelling units, carparking for 134 vehicles; landscaping and associates works, subject to the following conditions:

GENERAL CONDITIONS

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

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

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated
S1.00.000 S1 Cover Sheet Rev 5	SJB	23.01.2018
S1.01.001 Lot S Building Arrangement Rev 6		23.01.2018
S1.02.001 Ground Floor & Basement Plan Rev 13		23.01.2018
S1.02.002 Level 1 & Level 2 Floor Plan Rev 11		23.01.2018
S1.02.003 Level 3 & Level 4 Floor Plan & Roof Plan Rev 11		23.01.2018
S1.06.001 Analysis - Area Plans GFA Rev 6		23.01.2018
S1.07.001 Elevations Rev 10		23.01.2018
S1.08.001 Sections - Sheet 1 Rev 10		23.01.2018
S1.08.002 Sections - Sheet 2 Rev 9		23.01.2018
S1.08.200 Detailed Elevation & Section Rev 3		23.01.2018
DA.S2.01.001 SITE ANALYSIS Issue 3	NEESON MURCUTT ARCHITEC TS PTY LTD	24/1/18
DA.S2.01.002 SITE PLAN Issue 3		24/1/18
DA.S2.02.001 GA PLANS - BASEMENT Issue 3		24/1/18
DA.S2.02.002 GA PLANS - LEVEL 0 Issue 4		24/1/18
DA.S2.02.003 GA PLANS - LEVEL 1 Issue 4		24/1/18
DA.S2.02.004 GA PLANS - LEVEL 2 Issue 4		24/1/18
DA.S2.02.005 GA PLANS - ROOF Issue 4		24/1/18
DA.S2.07.001 ELEVATIONS - APARTMENT BUILDING Issue 12		24/1/18
DA.S2.07.002 ELEVATIONS - APARTMENT BUILDING Issue 12		24/1/18
DA.S2.07.003 ELEVATIONS - TERRACES Issue 10		24/1/18
DA.S2.07.004 ELEVATIONS - TERRACES Issue 10		24/1/18
DA.S2.08.001 SECTIONS - TERRACES 1:200 Issue 11		24/1/18
DA.S2.08.002 SECTIONS - APARTMENT BUILDING Issue 11		24/1/18
DA.S2.09.003 SECTIONS - TERRACE Issue 9		24/1/18
DA.S3.01.03 Existing Conditions and Demolition Plan Rev C	Bates Smart	19.01.18
DA.S3.03.00 Ground Floor Plan Rev C		19.01.18

Plan	Drawn by	Dated
DA.S3.03.01 Level 1 Plan Rev C		19.01.18
DA.S3.03.02 Level 2 Plan Rev C		19.01.18
DA.S3.03.03 Level 3 Plan Rev C		19.01.18
DA.S3.03.04 Level 4 Plan Rev C		19.01.18
DA.S3.03.05 Level 5 Plan Rev C		19.01.18
DA.S3.03.06 Level 6 Plan Rev C		19.01.18
DA.S3.03.07 Roof Plan Rev C		19.01.18
DA.S3.07.01 North & South Elevations Rev C		19.01.18
DA.S3.07.02 East & West Elevations Rev C		19.01.18
DA.S3.08.01 Section 1 Rev C		19.01.18
DA.S3.08.02 Section 2 Rev C		19.01.18
DA.S3.08.03 Section 3 Rev C		19.01.18
DA.S3.08.04 Section 4 Rev C		19.01.18
DA.S3.08.05 Section 5 Rev C		19.01.18
DA.S3.08.06 Section 6 Rev C		19.01.18
Basix Certificate 765678M_05		17 January 2018
Basix Certificate 765605M_04		8 September 2017
Basix Certificate 764120M_06		19 January 2018
Basix Certificate 764128M_08		19 January 2018
Basix Certificate 765810M_02		18 November 2016
Basix Certificate 765807M_03		7 October 2016

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. A 1.4m high planter box with a depth of 1.5m to be located at the northern side of apartment 405 (2-B corner apartment) which is to wrap around the eastern side of the apartment for a length of 8.4m. The planter box shall contain perennial species to a minimum height of 1.7m above the communal roof terrace floor level. The maintenance of planting within the planter box shall be included in the plan of management for the site.
 - b. The northern balustrades to building S2.2 shall be increased to minimum height of 1.3m above floor level. The landscaping along the rear boundary will provide a secondary privacy buffer.

NSW Heritage Office S60 conditions

3. All work shall comply with the information contained within:
 - (a) GML Heritage Newmarket Historical Archaeological Assessment report prepared for Cbus Property Sydney Residential Pty Ltd, prepared by GML Heritage, dated March 2017, as listed in Condition no.1
 - (b) Newmarket Stables, Randwick, Archaeological Impact Assessment and Research Design, report prepared for Cbus Property Sydney Residential Pty Ltd prepared by GML Heritage dated September 2017
 - (c) Big Stable and Newmarket Conservation Management Plan, OCP Architects September 2016,
 - (d) Development Application Notice of Determination DA/662/2016, approved 8 August 2017 for Stage 2 Integrated Development Application for Infrastructure works comprising site enabling works including demolition, site remediation, removal of existing trees, subdivision and provision of civil

and road infrastructure works including new internal roads, in-ground infrastructure and construction of a new public park (Heritage item).

EXCEPT AS AMENDED by the conditions of this approval:

4. HISTORICAL ARCHAEOLOGY

- (a) All works shall be in accordance with the approved research design and methodology outlined in 'Newmarket Stables, Randwick, Archaeological Impact Assessment and Research Design, report prepared for Cbus Property Sydney Residential Pty Ltd prepared by GML Heritage dated September 2017, except as amended by the following conditions:
- (b) This archaeological approval does not cover the removal of any State significant relics. This approval covers the archaeological testing and monitoring of works which may disturb or expose relics associated with the Big Stables Newmarket site, only.
Fieldwork
- (c) The Heritage Council of NSW or its Delegate must be informed in writing of the start of the archaeological investigation at least five (5) days prior to the commencement of, and within five (5) days of the completion of on-site archaeological work.
- (d) The Applicant must ensure that if substantial intact archaeological deposits and/or State significant relics not identified in 'GML Heritage Newmarket Historical Archaeological Assessment report prepared for Cbus Property Sydney Residential Pty Ltd, prepared by GML Heritage, dated March 2017, are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.
- (e) The Applicant must ensure that the nominated Excavation Directors, Dr Jennifer Jones, or Dr Tim Owen are present at the site supervising all excavation activity likely to expose relics.
- (f) The Applicant must ensure that the nominated Excavation Directors Dr. Jennifer Jones and Dr Tim Owen take adequate steps to record in detail relics, structures and features discovered on the site during the archaeological works in accordance with current best practice. This work must be undertaken in accordance with the NSW Heritage Office guidelines, 'How to Prepare Archival Records of Heritage Items' (1998) and 'Guidelines for Photographic Recording of Heritage Items' (2006).
- (g) Analysis and Reporting
The Applicant is responsible for the safe-keeping of any relics recovered from the site. The Applicant must ensure that the nominated Excavation Directors, Dr Jennifer Jones, Dr Tim Owen or an appropriate specialist, cleans, stabilises, labels, analyses, catalogues and stores any artefacts recovered from the site in a way that allows them to be retrieved according to both type and provenance.
- (h) 500 word summary:
The Applicant must ensure that a summary of the results of the field work, up to 500 words in length, prepared by the approved Primary Excavation Director nominated in the section 60 form, Dr Jennifer Jones, is submitted to the Heritage Council of NSW for approval within one (1) month of completion of archaeological field work.
- (i) Final report:
The Applicant must ensure that a final excavation report is prepared by the nominated Excavation Directors, Dr Jennifer Jones and Dr Tim Owen, to publication standard, within one (1) year of the completion of the field based archaeological activity unless an extension of time or other variation is approved by the Heritage Council of NSW. Further copies of the report should

be lodged with the local library and/or another appropriate local repository in the area in which the site is located.

(j) Unexpected historical archaeological relics protection

The Applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Reason: Standard conditions to manage the approved change to significant historical archaeological resources identified within the SHR curtilage.

5. ABORIGINAL OBJECTS

Should any Aboriginal 'objects' be uncovered by the work, excavation or disturbance of the area is to stop immediately and the Office of Environment & Heritage is to be informed in accordance with Section 89A of the National Parks and Wildlife Act, 1974 (as amended). Works affecting Aboriginal 'objects' on the site must not continue until the Office of Environment and Heritage has been informed. Aboriginal 'objects' must be managed in accordance with the National Parks and Wildlife Act, 1974

Reason: To comply with legislation

6. COMPLIANCE

If requested, the Applicant and nominated Heritage Consultant may be required to participate in audits of Heritage Council approvals to confirm compliance with conditions of consent.

Reason: To ensure completion of the works in accordance with the approved plans and to improve the approvals process through a better understanding of the implementation of conditions of approval.

7. DURATION OF APPROVAL

This approval shall be void if the activity to which it refers is not substantially commenced within five years after the date of the approval, or within the period of consent specified in any relevant development consent granted under the Environmental Planning and Assessment Act 1979, whichever occurs first.

Reason: To comply with legislation.

Heritage Council of NSW S140 conditions for Testing and Monitoring at 1 Young Street, Randwick – Inglis Newmarket Stables Conditions of Approval 2017/S140/28

Approved Archaeological Works

8. All works shall be in accordance with the approved research design and methodology outlined in the Newmarket Stables, Randwick, Archaeological Impact Assessment and Research Design, report prepared for Cbus Property Sydney Residential Pty Ltd, prepared by GML Heritage Pty Ltd, dated September 2017, except as amended by the following conditions:

9. This permit covers monitoring and salvage of relics, only of local significance are affected/allowed to be removed.

10. This archaeological approval is valid for five (5) years from the date of approval. Requests for extensions beyond this time must be made in writing prior to expiry of the permit.

Fieldwork

11. The Heritage Council of NSW or its delegate must be informed of the commencement and completion of the archaeological program at least 5 days prior to the commencement and within 5 days of the completion of work on site. The

Heritage Council and staff of the Heritage Division, Office of Environment & Heritage authorised under section 148(1) of the Heritage Act, 1977, reserve the right to inspect the site and records at all times and to access any relics recovered from the site.

12. The Applicant must ensure that if substantial intact archaeological deposits not identified in the Newmarket Stables, Randwick, Archaeological Impact Assessment and Research Design, report prepared for Cbus Property Sydney Residential Pty Ltd, prepared by GML Heritage Pty Ltd, dated September 2017, are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.
13. Should any Aboriginal objects be uncovered by the work, excavation or disturbance of the area is to stop immediately and the Office of Environment & Heritage (Enviroline 131 555) is to be notified in accordance with Section 89A of the National Parks and Wildlife Act, 1974 (NPW Act). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by the Office of Environment & Heritage.
14. The Heritage Council of NSW must approve any substantial deviations from the approved research design outlined in Newmarket Stables, Randwick, Archaeological Impact Assessment and Research Design, report prepared for Cbus Property Sydney Residential Pty Ltd, prepared by GML Heritage Pty Ltd, dated September 2017, including extent and techniques of excavations, as an application for the variation or revocation of a permit under section 144 of the Heritage Act, 1977.
15. The Applicant must ensure that the approved Primary and Secondary Excavation Director nominated in the section 140 application 2017/S140/28, Dr Jennifer Jones and Dr Tim Owen, is present at the site supervising all archaeological fieldwork activity likely to expose significant relics.
16. The Applicant must ensure that the approved Primary and Secondary Excavation Director nominated in the section 140 application 2017/S140/28, Dr Jennifer Jones and Dr Tim Owen, takes adequate steps to record in detail relics, structures and features discovered on the site during the archaeological works in accordance with current best practice. This work must be undertaken in accordance with relevant Heritage Council guidelines.
17. The Applicant must ensure that the nominated Excavation Director briefs all personnel involved in the project about the requirements of the NSW Heritage Act, 1977 in relation to the proposed archaeological program. This briefing should be undertaken prior to the commencement of on-site excavation works.
18. The Applicant must ensure that the nominated Excavation Director and the excavation team is given adequate resources to allow full and detailed recording to be undertaken to the satisfaction of the Heritage Council.
19. The Applicant must ensure that the site under archaeological investigation is made secure and that the unexcavated artefacts, structures and features are not subject to deterioration, damage, destruction or theft during fieldwork.
20. The Applicant is responsible for the safe-keeping of all relics recovered from the site.

Analysis and Reporting

21. The Applicant must ensure that the approved Primary and Secondary Excavation Director or an appropriate specialist, cleans, stabilises, labels, analyses, catalogues and stores any artefacts recovered from the site in a way that allows them to be retrieved according to both type and provenance.
22. The Applicant must ensure that a summary of the results of the field work, up to 500 words in length, prepared by the approved Primary Excavation Director nominated in the section 140 form, Dr Jennifer Jones and Dr Tim Owen, is submitted to the Heritage Council of NSW for approval within one (1) month of completion of archaeological field work. This information is required in accordance with section 146(b) of the Heritage Act, 1977.
23. The Applicant must ensure that a final excavation report is written by the approved Primary and Secondary Excavation Director nominated in the section 140 application 2017/S140/28, Dr Jennifer Jones and Dr Tim Owen, to publication standard, within one (1) year of the completion of the field based archaeological activity unless an extension of time or other variation is approved by the Heritage Council of NSW in accordance with section 144 of the Heritage Act, 1977.
24. The Applicant must ensure that one (1) electronic copy of the final excavation report is submitted on CD to the Heritage Council of NSW together with two (2) printed copies of the final excavation report. These reports are required in accordance with section 146(b) of the Heritage Act, 1977. The Applicant must also ensure that further copies are lodged with the local library and/or another appropriate local repository in the area in which the site is located. It is also required that all digital resources (including reports, context and artefact data, scanned field notes, other datasets and documentation) should be lodged with a sustainable, online and open-access repository.
25. The Applicant must ensure that the information presented in a final excavation report includes the following:
 - (a) An executive summary of the archaeological programme;
 - (b) Due credit to the client paying for the excavation, on the title page;
 - (c) An accurate site location and site plan (with scale and north arrow) and including geo-reference data;
 - (d) Historical research, references, and bibliography;
 - (e) Detailed information on the excavation including the aim, the context for the excavation, procedures, treatment of artefacts (cleaning, conserving, sorting, cataloguing, labelling, scale photographs and/or drawings, location of repository) and analysis of the information retrieved;
 - (f) Nominated repository for the items;
 - (g) Detailed response to research questions (at minimum those stated in the Heritage Council approved Research Design);
 - (h) Conclusions from the archaeological programme. This information must include a reassessment of the site's heritage significance; statement(s) on how archaeological investigations at this site have contributed to the community's understanding of the site as a Newmarket garden, Horse Stabling and Newmarket House and Hotel from the mid-nineteenth century; recommendations for the future management of the site and how much of the site remains undisturbed;
 - (i) Details of how this information about this excavation has been publicly disseminated (for example, provide details about Public Open Days and include copies of press releases, public brochures and information signs produced to explain the archaeological significance of the site).
26. Compliance

If requested, the Applicant and nominated Heritage Consultant may be required to participate in audits of Heritage Council approvals to confirm compliance with conditions of consent.

Randwick Council Heritage conditions

27. The conditions of consent within the Excavation Permit issued by the Department of Environment and Heritage are to be complied with.
28. In the event of interpretive panels or other interpretive devices enabling interpretation of the former use of the site as horse sales yards and hotel are being provided in other areas of the overall development, a heritage interpretation plan is to be submitted for approval by Council and to be implemented prior to occupation of the works.
29. The annotation of elevations to Building 2.2 in the application is to be verified as to north and south orientation and if required corrected in the submitted documents.
30. The treatment of rear balconies and of ground floor decks to Building S2.2 is to be further resolved in terms of oversight of the Struggletown Conservation Area. Items to be further resolved are:
 - The relative levels of ground floor decks and landscape areas to the northern rear boundary and ground plane.
 - The use of white glazed brick to the northern elevation, this not being supported on the basis of prominent colour exacerbating rather than mitigating the proximity and scale of the new works to the Conservation Area. Subdued colour finishes should be utilised to all elements of the northern elevation of Building S2.2.
31. The proposed two storey undercroft at the eastern end of Building S3 linking Young Street and the central space between the seven and four storey structures is not be screened by glazing or other translucent or clear screening.
32. To mitigate the massing of Building S3 the horizontal banding of the exterior elevations should be relieved by further articulation. Elements to be considered include openings to the top floor verandah soffit, overlays of glazing or brickwork extending up from the pronounced horizontal layering or inserts to the external banding at key points such as the beginning of the recessed verandas reducing the apparent length of the three principle bays. Details showing compliance with this condition shall be submitted to and approved by Council's Manager of Development Assessment or Heritage Planner prior to a Construction certificate being issued for the development.

Crime Prevention through Environmental Design

33. The recommendations included in the CPTED Crime Risk Assessment stamped received by Council 24 October 2017 shall be implemented into the design and form part of the documentation for the construction certificate. Should there be any enquiries regarding this condition please contact Constable Andrew Carter, Crime Prevention Officer, Eastern Beaches Local Area Command.

Water NSW General Terms of Approval

34. A Water Supply Work Approval from WaterNSW must be obtained prior to commencing **dewatering** activity on the proposed site. Please complete an Application for approval for water supply works, and/or water use.
35. An application for a Water Supply Works Approval will only be accepted upon receipt of supporting documentation, and payment of the applicable fee (see Application fees for New or amended Works and/or Use Approvals). The information required

for the processing of the water supply work application may include preparation of a dewatering management plan. Please refer to checklist attached.

36. If approved, the Approval will be issued for a period of up to 24 months to cover the dewatering requirements during the construction phase. It will include conditions to ensure that impacts are acceptable and that adequate monitoring and reporting procedures are carried out. The Approval will be issued subject to the proponent meeting requirements of other agencies and consent authorities. For example, an authorisation by either Sydney Water or the local Council, depending where the water will be discharged. If contaminants are likely, or are found to be present in groundwater, and are being discharged to stormwater, including high salinities, a discharge licence under the Protection of the Environment Operations Act 1997 (NSW) may also be required.
37. WaterNSW prefers "tanking" (ie. total water proofing below the seasonal high water table) of basement excavations, and avoids the ongoing extraction of groundwater after the initial construction phase. It is also advised to adopt measures to facilitate movement of groundwater post construction (eg. a drainage blanket behind the water-proof membrane). 5. If the basement is not "tanked", the proponent will require a Water Access Licence (WAL) and need to acquire groundwater entitlements equivalent to the yearly ongoing take of groundwater. Please note: Acquiring groundwater entitlements could be difficult, and may cause delay in project completion. If a WAL is required, please complete an Application for a new water access licence with a zero share component.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

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

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

Consent Requirements

38. The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.
39. Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to Council's Manager Development Assessments for approval prior to the issuing of the construction certificate for the development.

Section 94A Development Contributions

40. In accordance with Council's Section 94A Development Contributions Plan effective from 21 April 2015, based on the development cost of \$81,777,247 the following applicable monetary levy must be paid to Council: \$817,772.50.

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 9399 0999 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.

Compliance Fee

41. A development compliance and enforcement fee of \$81,777.25 (0.1% of the development cost) shall be paid to Council in accordance with Council's adopted Fees & Charges Pricing Policy, prior to the issue of a Construction Certificate for development.

Long Service Levy Payments

42. 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 Deposit

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

- \$15,000.00 - Damage / Civil Works Security Deposit

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

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

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

Electricity Substation

44. The applicant must liaise with Ausgrid prior to obtaining a construction certificate (for any above ground works), to determine whether or not an electricity substation is required for the development. Any electricity substation required for the site as a consequence of this development shall be located within the site and shall be

screened from view. The proposed location and elevation shall be shown on relevant construction certificate and landscape plans.

Sydney Water

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

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

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

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

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

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

Tree Protection Measures

46. A detailed, site specific Tree Protection Plan (TPP) and Specification, as well as a separate Pruning Specification (PS), relating to preservation of the large and mature *Ficus macrophylla* (Moreton Bay Fig), Tree 160 (as taken from the Preliminary Arboricultural Report by Tree IQ, rev A, dated 12/02/16, and Supplementary 'Arborists Statement' by Tree IQ, dated 23/11/16; "the Arborist Reports"), that has been prepared by an AQF Level 5 Arborist, (who is eligible for membership with a nationally recognized organization/association), must be submitted to, and be approved by, Council's Director City Planning.
47. This Plan & Specification must detail the site specific measures that will be implemented both on the plans and on-site during the course of works to ensure the retention of T160, and must provide details, recommendations and mitigation measures in regards to the following specific components of the new works:
- a) Describe exactly what 'tree sensitive methods' will be used during the course of works;
 - b) How and where existing footings, surfaces & sub-base layers will be retained in-situ so as to minimise root disturbance and damage, with any new works to be provided around these existing items;
 - c) How all new pavements (including sub-base materials) will be provided above existing grades (existing levels & RL's must be provided so as to confirm compliance), and must be designed so as to avoid compaction of the sub-grade, below the new pavement level;
 - d) The use of 'tree sensitive construction methods' for all works associated with new road pavements, kerb, sub-grade and similar for RL1 (laneway) & ST4 (street); as well as for the new culvert (Siteworks & Stormwater Drainage Plan C0223/B, dated 09/09/16), where these items falls within its TPZ;

- e) How and where a porous/permeable treatment will be incorporated into the new laneway, roadway and parking bays, within its TPZ's, with details to be provided, with the basal 'flare' of its trunk and buttress roots also needing to be considered during the design of these elements;
 - f) Crown and root protection associated with works for the southern edge of Building S1, from Ground Level up to Level 4 (DA.S1.02.001/13, dated 23/01/18);
 - g) Any new fencing within its TPZ must be a lightweight structure, that is supported only on localized pad footings, such as posts or a pier and beam arrangement, with details confirming compliance to be provided;
 - h) Details and extent of TPZ fencing, as well as trunk and ground protection that must be in place prior to commencement of demolition, as well as being maintained throughout the course of works ;
 - i) Project Arborists involvement, including relevant hold points during the course of demolition and construction works;
 - j) Strategy and recommended treatment for dealing with any roots encountered that will either be retained in-situ; or; that may need to be pruned during the course of the approved works, and in the case of the latter, a joint inspection by Council's Landscape Development Officer (9093-6613) must be undertaken prior to the commencing of any root pruning;
 - k) Distances/offsets between the tree and all new works/structures;
 - l) Any changes to existing ground levels within its TPZ for new gardens, lawns, paved areas and similar, and must include details of material selection and sub-surface treatments;
 - m) Other than the approved footprint and roadways, there must be no other major excavations associated with new services, hydraulic/stormwater systems, continuous strip footings or similar within its TPZ;
48. The Pruning Specification is to clearly nominate the extent of pruning that is sought (must include photos), with the amount to be identified as a quantity; height above ground level; growth direction and branch diameter, and must not result in the loss of more than 5% of its total crown volume, as is confirmed in the Supplementary 'Arborists Statement' by Tree IQ, dated 23/11/16.
49. Works on-site must be performed in accordance with the approved Tree Protection Plan, Specification and Pruning Specification, to Council's satisfaction, only by the Project Arborist; or; under their direct supervision.
50. A SAS section (A) and Summary Site Audit Report (SSAR) is to be provided to the Council prior to the issue of any subdivision certificate/construction certificate for building work (other than shoring work, piling work, retaining structures or any other work which is necessary to carry out remediation works) in each stage of the development, to certify that the site is suitable for its intended uses.
- It is noted that any proposed development and remediation strategies must be undertaken in such a manner that minimise the potential for cross contamination of land and ground water during the staged the development.
51. All residential units on the site are to achieve the relevant internal acoustic amenity criteria set in:

- (a) SEPP 65 - Design Quality of Residential Apartment Development
- (b) Randwick City Council DCP - Part C – Residential - Medium Density Residential
- (c) Randwick City Council DCP - Part E - Specific Sites – Newmarket Green
- (d) Aircraft noise intrusion - Building siting and construction AS-2021-2015

52. A report prepared by a suitably qualified and experienced consultant in acoustics shall be submitted to Council **prior to a construction certificate being issued for the development**, which demonstrates that noise and vibration emissions from the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, Environmental Protection Authority Noise Control Manual & Industrial Noise Policy, relevant conditions of consent (including any relevant approved acoustic report and recommendations). The assessment and report must include all relevant fixed and operational noise sources.

Sydney Airport Corporation Limited (SACL) - Airspace

53. The maximum height to the topmost point of the proposed building, including any rooftop installations, such as lift overruns, air conditioning plant and equipment, solar panels, vents, chimneys, aerials and the like, shall not exceed RL58.00 metres above AHD, as denoted in the Sydney Airport Corporation Limited letter to Council dated 28/09/2017 (SACL Reg No.: 17/0766 Dated 17 October 2017). Should these heights be exceeded, a new application is required to be submitted. SACL advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct. Information requirements are contained in the letter identified above. Details demonstrating compliance shall be incorporated in the Construction Certificate.

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 & Relevant Standards

54. In accordance with section 80A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
55. 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.

BASIX Requirements

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

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

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

Site stability, Excavation and Construction work

57. A report must be obtained from a suitably qualified and experienced *professional engineer*, which includes the following details, to the satisfaction of the Certifying Authority for the development:-
 - a) Geotechnical details which confirm the suitability and stability of the site for the development and relevant design and construction requirements to be implemented to ensure the stability and adequacy of the development and adjacent land.
 - b) Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings.
 - c) Details to demonstrate that the proposed methods of excavation, support and construction are suitable for the site and should not result in any damage to the adjoining premises, buildings or any public place, as a result of the works and any associated vibration.
 - d) The adjoining land and buildings located upon the adjoining land must be adequately supported at all times throughout demolition, excavation and building work, to the satisfaction of the *Principal Certifying Authority*.
 - e) Written approval must be obtained from the owners of the adjoining land to install any ground or rock anchors underneath t

58. A SAS section (A) and Summary Site Audit Report (SSAR) is to be provided to the Council prior to the issue of any subdivision certificate/construction certificate for building work (other than shoring work, piling work, retaining structures or any other work which is necessary to carry out remediation works) in each stage of the development, to certify that the site is suitable for its intended uses.

It is noted that any proposed development and remediation strategies must be undertaken in such a manner that minimise the potential for cross contamination of land and ground water during the staged the development.

59. All residential units on the site are to achieve the relevant internal acoustic amenity criteria set in:
 - (a) SEPP 65 - Design Quality of Residential Apartment Development
 - (b) Randwick City Council DCP - Part C - Residential - Medium Density Residential
 - (c) Randwick City Council DCP - Part E - Specific Sites - Newmarket Green
 - (d) Aircraft noise intrusion - Building siting and construction AS-2021-2015

60. A report prepared by a suitably qualified and experienced consultant in acoustics shall be submitted to Council **prior to a construction certificate being issued for the development**, which demonstrates that noise and vibration emissions from the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, Environmental Protection Authority Noise Control Manual & Industrial Noise Policy, relevant conditions of consent (including any relevant approved acoustic report and recommendations). The assessment and report must include all relevant fixed and operational noise sources.

Traffic Conditions

61. Adequate provisions are to be made to provide pedestrian visibility and safety. All new walls (and/or landscaping) adjacent to vehicular crossings should not exceed a height of 600mm above the internal driveway level for a distance of 1.5m within the site or new walls (including landscaping) should splayed 1.5 metres by 1.5 metres. Details of compliance, to the satisfaction of the certifying authority, are to be included in the construction certificate documentation.
62. The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of AS 2890.1:2004. The following amendments are also required
 - Turning manoeuvre into basement aisle from entry ramp is tight from entry ramp and appears to conflict with column.
 - Exiting carspace 8 in Basement on Lot S2 is likely to be problematic due to proximity of bicycle storage and wall. This shall be amended and/or manoeuvring diagrams to demonstrate satisfactory ingresses and egress into this space.
 - Internal driveway width for Lot SAS 2890.1 - Category 1A Driveway for 133 spaces. Table 3.1 in AS 2890.1 requires driveway width of between 6 to 9 m for exit/entry combined or 3m each if separate entry/exit. Driveway indicated as 5.54m wide so does not comply.

Construction Certificate plans must demonstrate compliance with these requirements.

Splay Corners

63. The Construction Certificate plans must indicate the following;
 - a) A minimum 2.5 metre by 2.5 metre splay corner at the intersection of Young Street and proposed road DV1
 - b) A minimum 2.5 metre by 2.5 metre splay corner at the intersection of Young Street and proposed Street ST3.
 - c) A minimum 2.5 metre by 2.5 metre splay corner at the intersection of proposed Street DV1 & ST4.
 - d) A minimum 2.5 metre by 2.5 metre splay corner at the intersection of proposed Streets ST3 & ST4.
 - e) A minimum 1.5 metre by 1.5 metre splay corner at the intersection of proposed Street DV1 & PL1.
 - f) A minimum 1.5 metre by 1.5 metre splay corner at the right angle bend in proposed laneway PL1.
 - g) A minimum 1.5m x 1.5m splay corner at the intersection of Road ST 4 and laneway PL1

The splay corners shall be dedicated as public road, at no cost to Council, prior to the issuing of an final Occupation Certificate.

Design Alignment Levels

64. The design alignment level (the finished level of concrete, paving or the like) at the proposed road DV1, ST3 & ST4 property boundary for driveways, access ramps and pathways or the like, must be obtained in writing from Council's Development

Engineering Coordinator prior to lodgement of the Construction Certificate. The level shall be generally be 2.5% above the top of the kerb at all points opposite.

Note: the top of the kerb referenced will be the top of the kerb as shown on the approved civil design plans following the issuing of a construction certificate associated with Development Application 662/2016.

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

Any enquiries regarding this matter should be directed to Council's Development Engineering coordinator on 9093-6924.

65. The above alignment levels and the site inspection by Council's Development Engineering Section will be issued at a prescribed fee of \$12,095 calculated at \$57.00 per metre of the 3 site frontages containing the basement vehicle entrances. This amount is to be paid prior to a construction certificate being issued for the development.

Stormwater Drainage & Flood Management

66. Prior to lodgement of a Construction Certificate the applicant shall submit to Council for approval, and have approved, a detailed plan showing the critical 1%AEP flood levels along the site frontages.

The applicant's hydraulic consultant must certify to Council's satisfaction that all residential components of the development are protected up to the critical 1% AEP flood level plus 500mm, excluding the internal driveway ramps which must have a high point at 300mm above the critical 1%AEP flood level and also ground floor garages which shall be provided at or above the level of the critical 1% AEP flood level.

67. Windows, vents and other openings into the basement car parks are to be located at least 300 mm above the determined 1 in 100 year flood level. Details demonstrating compliance with this condition are to be included in the construction certificate documentation.
68. The ground floor level located along the site street frontages shall be designed to *structurally* withstand hydrostatic pressure/stormwater inundation from floodwater during the probable maximum flood (PMF) event as defined in the Floodplain Management Manual (New South Wales Government, January 2001). Structural Engineering certification confirming that this condition has been complied with shall be submitted to the certifying authority with the construction certificate.

This requirement does not necessitate the development being flood proof/water tight up to the PMF event, rather the requirement is to ensure that the development will not be *structurally* damaged in manner that could endanger lives during the PMF event.

69. 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.

Community Garden

70. To compensate for the loss of rainwater storage to Randwick Council's Community garden created by the removal of connections from demolished buildings in the southern portion of the site, the existing stormwater discharge from the 'Big Stable' building in the south east portion of the Newmarket Development site shall be redirected to rainwater tanks within the community garden as part of this development approval. Documentation and plans demonstrating compliance with this requirement are to be submitted to Council's Engineers for approval prior to issuing of a construction certificate. The documentation must also include the likely timing of the works with the reconnection required to be in place as soon as practical.

Internal Drainage

71. 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) to the underground drainage system in Young Street or ST1 via a new and/or existing kerb inlet pit
 - 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 **20% AEP (1 in 5 year)** storm of one hour duration for existing site conditions. All other stormwater run-off from the site for all storms up to the 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) 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.

Where possible any detention tanks should have an open base to infiltrate stormwater into the ground. Infiltration should not be used if ground water and/or any rock stratum is within 2.0 metres of the base of the tank.

- e) 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.

- f) Should a charged system be required to drain any portion of the site, the charged system must be designed such that;
- There are suitable clear-outs/inspection points at pipe bends and junctions.
 - The maximum depth of the charged line does not exceed 1m below the gutter outlet.
- g) If connecting to Council's underground drainage system, a reflux valve shall be provided (within the site) over the pipeline discharging from the site to ensure that stormwater from Council drainage system does not surcharge back into the site stormwater system.
- h) Any new kerb inlet pits (constructed within Council's road reserve) are to be constructed generally in accordance with Council's standard detail for the design of kerb inlet pits (drawing number SD6 which is available from Council).
- i) 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.
- j) A sediment/silt arrestor pit must be provided within the site near the street boundary prior to discharge of the stormwater to Council's drainage system and prior to discharging the stormwater to any absorption/infiltration system.

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

- i. The base of the pit being located a minimum 300mm under the invert level of the outlet pipe.
- ii. The pit being constructed from cast in-situ concrete, precast concrete or double brick.
- iii. 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.
- iv. A galvanised heavy-duty screen being provided over the outlet pipe/s (Mascot GMS multipurpose filter screen or equivalent).
- v. The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system.
- vi. A child proof and corrosion resistant fastening system being provided for the access grate (e.g. spring loaded j-bolts or similar).
- vii. 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.

- k) 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).

- l) 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.

- m) A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
- n) 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.
- o) Any onsite detention/infiltration systems shall be located in areas to be dedicated as common property / areas accessible by residents of all units.

Groundwater Site seepage & Dewatering

72. As the proposed basement level/s may extend into the water table (or be affected by fluctuations of the water table), the following requirements apply:

- a) The design and construction of the basement level/s must preclude the need for dewatering after construction.

That part of the development that may be impacted by the water table must include a water proof retention system (i.e. a fully tanked structure) with adequate provision for future fluctuations of water table levels. (It is recommended that a minimum allowance for a water table variation of at least +/-1.0 metre beyond any expected fluctuation be provided). The actual water table fluctuation and fluctuation safety margin must be determined by a suitably qualified professional.

- b) Groundwater management systems shall be designed to transfer groundwater around, through or under the proposed development without a change in the range of the natural groundwater level fluctuations in the locality.

Where an impediment to the natural flowpaths is created as a result of the nature of the construction methods utilised or the bulk of the below-ground structure, artificial drains such as perimeter drains and through drainage may be utilised. These systems may only be utilised where it can be demonstrated that the natural groundwater flow regime is restored both up-gradient and down-gradient of the site, without any adverse effects on surrounding property or infrastructure.

Groundwater management systems:

- Are to be designed to be easily maintained.
- Should have a design life of 100 years.

- c) The basement level/s of the building must be designed by a structural engineer who is qualified and experienced in the design of structures below a water table. Details of the proposed methods of managing groundwater, tanking and waterproofing must be submitted to and approved by the certifying authority, prior to issuing the **construction certificate**. A copy of the engineer's qualifications and experience must also be submitted to the Certifying Authority.

In the event of the development being modified in a manner that changes building/structural loads or alters the basement design, a suitably qualified and experienced structural engineer must certify that the design of the basement remains adequate for the site conditions.

73. Prior to the issue of a construction certificate, a report must be submitted to and approved by the Certifying Authority, detailing the proposed methods of excavation (including support), managing groundwater and dewatering the site.

The report is to be prepared by a suitably qualified and experienced Geotechnical and/or Hydrogeological Engineer and include:

- a. Details of compliance with relevant approvals and licences (e.g. Council's conditions of consent and Water Licence from the Office of Water).
- b. The proposed method of excavation, shoring/piling and dewatering.
- c. Assessment of the potential risk of off-site impacts such as damage to surrounding buildings or infrastructure due to differential sediment compaction and surface settlement during and following pumping of groundwater. *Note: The assessment must demonstrate that the proposed method of excavation and dewatering will not pose an unacceptable risk of damage.*
- d. The zone of any possible settlement.
- e. Details of the proposed temporary disposal of groundwater and/or construction site stormwater to Council's drainage system. *Note: Prior to discharging groundwater (or site stormwater) into Council's stormwater drainage system, separate written approval must be obtained from Council in accordance with Section 138 of the Roads Act 1993.*
- f. The location of any proposed re-injection points in relation to the property boundaries (where re-injection equipment is to be located on land other than the subject premises, the written consent of the owner must also be provided to Council).
- g. Details of groundwater quality and proposed disposal of any potentially contaminated groundwater in an environmentally sensitive manner. The details must demonstrate compliance with relevant requirements and approvals of the Office of Environment & Heritage, Council and the Protection of the Environment Operations Act 1997.
- h. The program to monitor fluctuations of the water table during dewatering/construction to ensure that the conditions of consent and other relevant requirements are satisfied.
- i. The location of all proposed monitoring and pumping equipment in relation to the property boundaries (where monitoring or pumping equipment is to be located on land other than the subject premises, the written consent of the owner must also be provided to Council).
- j. Details of any consultation and arrangements made with owners of any potentially affected nearby premises (i.e. in relation to access, monitoring and rectification of possible damage to other premises)
- k. Certification that the proposed methods of dewatering and excavation are:
 - appropriate and in accordance with 'best practice' principles; and
 - should not result in any unacceptable levels of settlement or damage of the adjoining or nearby buildings within the zone of influence.

A copy of the approved report must be submitted to Council, (for Council's record keeping purposes and as confirmation that this condition has been complied with), prior to the commencement of any site construction works.

Any practices or recommendations made by the consulting engineer/s in the approved report must be implemented accordingly and the dewatering process must be monitored by the consulting engineer/s to the satisfaction of the Principal Certifying Authority.

Waste Management

74. A Demolition and Construction Waste Management Plan (WMP) detailing the waste recycling and removal strategy for all of the development during demolition NS construction, is required to be submitted to and approved by Council's Waste Management Coordinator.

The Demolition and Construction Waste Management plan must include but not be limited to the following details (as applicable):

- The type and quantity of demolition and construction waste to be generated by the development, including materials to be re-used or recycled.
- Details of the proposed recycling and waste disposal contractors.
- Temporary waste storage facilities/locations and equipment.
- Access and traffic arrangements.

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

NOTE: Operational Waste Management provisions shall be implemented in general accordance with the Operational Waste Management plans for S1, S2 & S3 by Elephants Foot submitted with the development application, and as detailed in the conditions of this consent (prior to occupation), subject to any amendments required by Council's Waste Management Coordinator.

75. The waste storage areas are to be provided with a tap and hose and the floor is to be graded and drained to the sewer to the requirements of Sydney Water.

Landscape Plans

76. The Certifying Authority/PCA must ensure that the Landscape Plans submitted as part of the approved Construction Certificate are substantially consistent with the Landscape Masterplan & Landscape Plans by Arcadia, dwg's 001-501, Issue C, dated Nov 2016, and Amended Landscape Masterplan & Softworks Plans for S3, by Arcadia, dwg 100-203, Issue A, dated Jan 2018.

REQUIREMENTS BEFORE REMEDIATION COMMENCES

The following conditions of consent must be complied with before remediation commences.

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

77. A Site Audit Statement (SAS) issued under section (B) is to be provided to Council prior to the commencement of any remediation works to determine that:
- i. the nature and extent of the contamination has been appropriately determined

AND

- ii. the investigation/remedial action plan/management plan is appropriate for the purpose stated above

AND

- iii. the site can be made suitable for the intended uses.

78. The Remedial Action Plan (RAP) indicates possible capping/containment under roads and open spaces that will be dedicated back to Council. An amended RAP must be submitted prior to remediation works commencing to ensure land to be dedicated to Council does not have any capping/containment of contaminated materials. Please be advised that Council will not accept dedication of land that will contain capping/containment of contaminated material.

79. A Site Remediation Management Plan must be prepared prior to the commencement of remediation works by a suitably qualified environmental consultant and be implemented throughout remediation works. The Site Remediation Management Plan shall include measures to address the following matters:

- a) General site management, site security, barriers, traffic management and signage
- b) Hazard identification and control
- c) Worker health & safety, work zones and decontamination procedures
- d) Prevention of cross contamination
- e) Appropriate site drainage, sediment controls, and if necessary dewatering
- f) Air quality criteria to be implemented during remediation, in accordance with Part 8 of the WHS Regulation 2011
- g) Air and water quality monitoring requirements
- h) Air quality management measures for asbestos to protect on-site workers and the surrounding community during remediation, particularly in relation to dust mitigation
- i) Site work responses to be implemented during remediation should environmental monitoring criteria be exceeded
- j) Storage, handling, classification and disposal of hazardous wastes
- k) contingency plans and incident reporting, including Health and Safety and environmental incident management
- l) details of provisions for monitoring implementation of remediation works and persons/consultants responsible (to include contact name and numbers)
- m) Details for deliveries, parking and vehicular access to and from the site, ensuring adequate measure are in place to minimise environmental and neighbourhood disturbance
- n) Any other proposed preventative response procedures to manage the issue of public exposure to contaminants including but not limited to asbestos
- o) Containment control zones

A copy of the Auditor approved Site Remediation Management Plan is to be forwarded to Council prior to commencing remediation works.

80. Prior to works commencing a Class "A" licensed asbestos removalist is to be engaged and is required to ensure the following is undertaken during works:

- Develop an Asbestos Removal Control Plan (ARCP). The ARCP shall identify measures to reduce and prevent exposure to asbestos during works,

- ensure that contaminants do not result in a public nuisance or affect the health and safety of the site workers or surrounding community,
- satisfy the relevant conditions of development consent,
- detail the engagement of an independent licensed asbestos assessor to perform air monitoring during the asbestos works,
- Address a range of related requirements specified under Part 8 of the *WHS Regulation 2011* in regard to Class A Licensed asbestos removal work (safety measures to prevent exposure during the work, various notifications requirements etc), and
- Ensure appropriate neighbourhood notification is undertaken

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

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

Certification and Building Inspection Requirements

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

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

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

- b) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
- c) a *principal contractor* must be appointed for the building work and the requirements of the *Home Building Act 1989* must be satisfied accordingly; and
- d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
- e) at least two days notice must be given to the Council, in writing, prior to commencing any works.

Home Building Act 1989

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

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

Dilapidation Reports

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

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

Construction Site Management Plan

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

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

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

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

Demolition Work Plan

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

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

- The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor
- Details of hazardous materials (including asbestos)
- Method/s of demolition (including removal of any asbestos)
- Measures and processes to be implemented to ensure the health & safety of workers and community

- Measures to be implemented to minimise any airborne dust and asbestos
- Methods and location of disposal of any hazardous materials (including asbestos)
- Other relevant details, measures and requirements to be implemented
- Details of re-use, recycling and disposal of waste materials
- Date the demolition works will commence

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

If the work involves asbestos products or materials, a copy of the Demolition Work Plan must also be provided to Council not less than 2 days before commencing those works.

Notes

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

Construction Noise & Vibration Management Plan

86. A *Construction Noise & Vibration Management Plan*, prepared in accordance with the Environment Protection Authority (EPA) Guidelines for Construction Noise and Assessing Vibration, by a suitably qualified person, is to be developed and implemented prior to commencing site work and throughout the course of construction, in accordance with the following requirements:

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

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

- b) The *Construction Noise & Vibration Management Plan* must include details of measurements, analysis and relevant criteria and demonstrate that the noise and vibration emissions from the work satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997*, current EPA Guidelines for Construction Noise and Assessing Vibration and Councils conditions of consent.
- c) A further report/correspondence must be obtained from the consultant as soon as practicable upon the commencement of works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the *Construction Noise & Vibration Management Plan* and which demonstrates compliance with relevant criteria.
- d) Any recommendations and requirements contained in the *Construction Noise & Vibration Management Plan* and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to Council and the PCA.

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

Public Liability

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

Construction Traffic Management

88. 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 Young 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.

89. 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.

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

Civil Works

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

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

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

Public Utilities

92. 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.
93. 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.

Project Arborist

94. Prior to the commencement of any site works, the Certifying Authority/PCA must ensure that an AQF Level 5 Arborist (must be eligible for membership with a nationally recognized organization/association) has been formally engaged as *'the Project Arborist'* for the duration of works, and will be responsible for both implementing and monitoring the conditions of development consent, as well as the recommendations of the approved Tree Protection Plan & Pruning Specification.
95. The project Arborist must be present on-site at the relevant stages of works, and must keep a log of the dates of attendance and the works performed, which is to be presented as a Final Compliance Report, for the approval of the PCA, prior to the issue of any Occupation Certificate.

REQUIREMENTS DURING REMEDIATION AND DURING WORK

The following conditions of consent must be complied with during the remediation and earth works.

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.

96. The remediation of land must be implemented in accordance with a Remedial Action Plan (RAP), as amended and approved pursuant to these conditions, for the subject land and the following matters must be satisfied:

i) A copy of the Remedial Action Plan is to be forwarded to Council. The Remedial Action Plan (together with any proposed amendments) is to be reviewed by the Site Auditor and prior to the commencement of remediation works written confirmation is to be provided to Council from the Site Auditor which confirms that the Remedial Action Plan satisfies the relevant legislative provisions, guidelines and conditions of this consent:

- State Environmental Planning Policy No. 55.
- Contaminated Land management Act 1997.
- Contaminated Land Management Regulation 2013.
- Managing Land Contamination Guidelines 1998 (NSW EPA).
- Guidelines for the Assessment of On-site Containment of Contaminated Soil (EPA/DEC).
- Randwick City Council Contaminated Land Policy 1999.
- Protection of the Environment Operations Act 1997.

ii) Should it be proposed to provide on-site containment/capping of asbestos or other contaminants, written details of the proposal must be contained in the Remedial Action Plan and must be referred to Council for consideration and written concurrence must be obtained from Council prior to implementation of the Remedial Action Plan.

A copy of the Management Plan(s) and details of relevant notations/restrictions upon the Certificates of Title must be forwarded to Council prior to the issue of any SAS section A in respect of the site, together with a written statement from the Site Auditor, which confirms that the Management Plan is consistent with the Guidelines for the Assessment of Onsite Containment of Contaminated Soils and any other relevant guidelines and legislative requirements.

iii) The strategy for staged remediation of the site is to incorporate measures to ensure that adequate environmental and public health safeguards are implemented and monitored, including (but not be limited to):

- Cross-contamination, of any potential activity, which may result in the contamination of a clean or remediated area from an area that has not been remediated,
- Drainage including cross-contamination via drainage,
- Worker health and safety,
- Worker movement,
- Environmental impact and potential for migration or release of contaminants from the site,
- Groundwater movement across the site.

These shall be effectively addressed in a controlled manner through the development, implementation and monitoring of a detailed Site Management Plan (SMP) to be implemented during site remediation and infrastructure works.

The Site Management Plan for staged signoff is to be developed and implemented by a suitably qualified and experienced Environmental Consultant, to the satisfaction of the Site Auditor and Council. Written confirmation of the Site Auditors review and concurrence is to be forwarded to Council prior to commencement of remediation works.

97. Information and measures are to be documented detailing any staged remediation strategy to the satisfaction of the site auditor and Council prior to the commencement of remediation of the site including but not limited to:

The roles and responsibilities of all of the key stakeholders in the Project Team are to be clearly identified and fully detailed, including Any additional conditions that are specified in the Site Audit Statement(s) and Summary Site Audit Report(s) by the EPA Accredited Site Auditor, form part of this consent and must be complied with prior to the issue of any occupation certificate in relation to the site. All conditions must be discussed by the auditor with the planning authority, and agreed to by the Council prior to the completion of the Site Audit Statement. The following is noted:

- i) The key stakeholders can include, but are not limited to:
 - The site owner
 - The Project Manager
 - The Environmental Consultant
 - The Licensed Asbestos Removalist
 - The Remediation Contractor
 - The Waste Transporter
 - The Waste Receiving Contractor(s)
 - The Independent Site Auditor, and
 - The Relevant Regulator Agencies (i.e. Council, EPA NSW Health etc.)
- ii) Documentation detailing the staging of the remediation shall be provided (including periodical updates on the status of works).
- iii) The Unexpected Finds Protocol is to be expanded to include other potential unexpected finds such as waste fill and underground services.
- iv) Any significant amendments or changes to the staged remediation strategy are to be forwarded to Council for concurrence including necessary amendments or additional details required to be included in the strategy arising from the conditions of this consent, prior to the issue of any Site Audit Statement issued under the staged remediation strategy, together with written confirmation of the suitability of the amendments or changes from the Site Auditor.

An acid sulphate soil (ASS) management plan is to be developed and implemented as part of any further development application/s submitted in relation to the site, if acid sulphate soils are encountered prior to commencement of works. Any ASS management plan shall outline mitigation measures to the satisfaction of a suitably qualified environmental consultant and in accordance with the NSW Government ASS Manual (1998)

98. An Environmental Management Plan (EMP) is to be developed in accordance with the Western Australian Department of Health Guidelines for the Assessment, Remediation and Management of Asbestos Contaminated Sites in Western Australia

(WA DOH, May 2009) section 5.3 Ongoing Management. Any requirements contained within an Environmental Management Plan (EMP) form part of this consent and must be implemented accordingly. Land where capping and containment is proposed must be specified. Council must be consulted with prior to the development of the EMP and any comments made by Council are required to be taken into consideration prior to finalising the EMP.

99. Any beneficial reuse of material on-site is to be monitored and classified by a suitably experienced environmental specialist, together with the Site Auditor. Such material must be confirmed as suitable for reuse on the site by the Site Auditor prior to placement where it is to be reused either initially by issue of a Clearance Instruction by the Site Auditor and subsequently by issue of a Site Audit Statement (SAS) together with a Summary Site Audit Report (SSAR) in the format defined by the Contaminated Land Management Regulation 2013 and a copy provided to Council.
100. Documentary evidence such as clearance certificates must be obtained from the appointed Licenced Asbestos Removalist and Licenced Asbestos Assessor which confirms confirmation that the relevant requirements of the:
- *Work Health Safety (WHS) Regulation 2011* (in particular, Part 8)
 - *How to Safely Remove Asbestos: Code of Practice* by Safe Work Australia, 2016
 - *Managing Asbestos in or on Soil*, NSW EPA 2014
 - Relevant conditions of consent relating to land contamination and remediation have been satisfied accordingly and the implementation of the development has not impacted or affected the site investigations and associated Management Plans.
101. Remediation work shall be conducted within the following hours:
- | | |
|---|-----------|
| Monday – Friday | 7am – 5pm |
| Saturday | 8am – 5pm |
| No work permitted on Sundays or Public Holidays | |
102. A sign displaying the (24 hour) contact names and telephone details of the remediation contractor (and the site manager if different to remediation contractor) as well as the Class A Licensed Asbestos Removalist shall be displayed on the site adjacent to the site access. This sign shall be displayed throughout the duration of the remediation works.
103. Any variations to the remediation strategy or, new information which is identified during remediation, demolition or construction works that has the potential to alter previous conclusions about site contamination or the remediation strategy shall be notified to the Site Auditor and Council immediately in writing.

The written concurrence of the site auditor must be obtained prior to implementing any changes to the remediation action plan, strategies or associated conditions of consent.

104. Hazardous or intractable wastes arising from the site works, excavation and remediation process must be removed and disposed of in accordance with the requirements of WorkCover NSW and the Environment Protection Authority, and with the provisions of:
- *Work Health and Safety Act 2011;*
 - *The Occupational Health and Safety (Hazardous Substances) Regulation 2001;*
 - *The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;*

- *Protection of the Environment Operations Act 1997 (NSW) and*
- *NSW EPA Waste Classification Guidelines (2014).*

The works must not cause any environmental pollution, public nuisance or, result in an offence under the *Protection of the Environment Operations Act 1997* or *Work Health & Safety Act 2011* and Regulations.

105. Any contaminated land must be remediated to satisfy the relevant requirements of the *Contaminated Land Management Act 1997* and the National Environment Protection (Assessment of Site Contamination) Measure (NEPM) 2013 and details of compliance are to be provided to the Site Auditor and Council from a suitably qualified Environmental Consultant upon completion of the remediation works

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

106. 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.

Building & Demolition Work Requirements

107. 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

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

- 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 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 at www.randwick.nsw.gov.au in the Building & Development Section or a copy can be obtained from Council's Customer Service Centre.

Excavations, Back-filling & Retaining Walls

109. 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.

Support of Adjoining Land

110. 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.

Sediment & Erosion Control

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

Details must be included in the Construction Site Management Plan and a copy must be provided to the Principal Certifying Authority and Council. A copy must also be maintained on site and be made available to Council officers upon request.

Dust Control

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

Adequate dust control measures must be provided to the site prior to the works

commencing and the measures and practices must be maintained throughout the demolition, excavation and construction process, to the satisfaction of Council.

Dust control measures and practices may include:-

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

Temporary Site Fencing

113. Temporary site safety fencing or site hoarding must be provided to the perimeter of the site throughout demolition, excavation and construction works, to the satisfaction of Council, in accordance with the following requirements:

- a) Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), or heavy-duty plywood sheeting (painted white), or other material approved by Council.
- b) Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.
- c) All site fencing and hoardings must be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.
- d) An overhead ('B' Class) type hoarding is required to be provided to protect the public (unless otherwise approved by Council) if:
 - materials are to be hoisted (i.e. via a crane or hoist) over a public footway;
 - building or demolition works are to be carried out on buildings which are over 7.5m in height and located within 3.6m of the street alignment;
 - it is necessary to prevent articles or materials from falling and causing a potential danger or hazard to the public or occupants upon adjoining land;
 - as may otherwise be required by WorkCover, Council or the PCA.

Notes:

- *Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.*
- *If it is proposed to locate any site fencing, hoardings, amenities or articles upon any part of the footpath, nature strip or public place at any time, a separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.*

Public Safety & Site Management

114. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with to the satisfaction of Council:

- a) 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.
- b) 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.
- c) 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.

- d) Access gates and doorways within site fencing, hoardings and temporary site buildings or amenities must not open outwards into the road or footway.
- e) Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health, Building and Regulatory Services department.
- f) 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.

Site Signage

115. 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

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

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Excavating of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> • Monday to Friday - 8.00am to 1.00pm only • Saturday - No work permitted • Sunday & public holidays - No work permitted

Additional requirements for all development	<ul style="list-style-type: none"> • Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted
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An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.

Survey Requirements

117. A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building to the satisfaction of the Principal Certifying Authority (PCA):

- prior to construction (pouring of concrete) of footings and boundary retaining structures,
- prior to construction (pouring of concrete) of each floor slab,
- upon completion of the building, prior to issuing an *Occupation Certificate*,
- as otherwise may be required by the PCA.

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

Building Encroachments

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

Site Seepage & Stormwater

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

Details must include the following information:

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

Road/Asset Opening Permit

120. 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.

Roadway

121. If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to

excavate below the base of the footings. The notice is to include complete details of the work.

Traffic Management

122. 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.
123. 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.
124. All conditions and requirements of the NSW Police, Roads & Maritime Services, Transport and Council must be complied with at all times.

Stormwater Drainage

125. 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.

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

The site conditions and fluctuations in the water table are to be reviewed by the consulting Engineer prior to and during the excavation/construction process, to ensure the suitability of the excavation and dewatering process and compliance with Council's conditions of consent.

127. 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.

Pruning

128. Consistent with what is contained in the Supplementary 'Arborists Statement' by Tree IQ, dated 23/11/16, approval is granted for the minimal and selective pruning of T160, only where needed in order to avoid damage to the tree; or; to avoid interference with the approved works, and must not amount to more than 5% of its total crown volume.
129. This pruning work must also be consistent with the Pruning Specification that needs to be submitted separately and approved by Council in accordance with conditions 35-42 of DA/662/2016.
130. This pruning may be performed prior to the commencement of site works/demolition if needed, so as to minimize the chance of damage being caused to the tree by machinery and similar during demolition activities.
131. Pruning can only be performed by the Project Arborist, or, they must directly supervise an AQF Level III Practicing Arborist, and must be performed to the requirements of Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and NSW Work Cover Code of Practice for the Amenity Tree Industry (1998).

132. **Due to the inclusion of T160 in Council's Register of Significant Trees, the Project Arborist must contact Council's Landscape Development Officer on 9093-6613 (giving at least 2 working days-notice) to arrange a joint site meeting, prior to pruning, to confirm the exact location and extent of pruning that is permissible, with the Project Arborist to comply with any instructions issued by Council's Officer.**

Tree Removals

133. No tree removals have been approved as part of this application, with any tree removals needing to be performed only in accordance with the '*Tree Protection Plan & Specification*' (condition 35 of DA/662/2016) and '*Tree Removal*' (condition 43 of DA/662/2016), that are to be submitted separately to, and be approved by, Council as part of DA/662/2016

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

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

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

Fire Safety Certificates

135. Prior to issuing an interim or final Occupation Certificate, a single and complete *Fire Safety Certificate*, encompassing all of the essential fire safety measures contained in the *fire safety schedule* must be obtained and be submitted to Council, in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000*. The *Fire Safety Certificate* must be consistent with the *Fire Safety Schedule* which forms part of the Construction Certificate.

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

Structural Certification

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

Sydney Water Certification

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

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

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

BASIX Requirements & Certification

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

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

Noise Control Requirements & Certification

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

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

140. A report must be obtained from a suitably qualified and experienced consultant in acoustics, which demonstrates and certifies that noise and vibration from any plant and equipment (e.g. mechanical ventilation systems and air-conditioners) satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority (EPA) Noise Control Manual, Industrial Noise Policy and Council's development consent.

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

Council's Infrastructure, Vehicular Crossings & Road Openings

141. The owner/developer must meet the full cost for a Council approved contractor to:
- Construct a full width concrete heavy duty vehicular crossing and layback at kerb opposite the vehicular entrance to the premises in Young Street to Council's specifications and requirements.
 - Construct roads Young Street & DV1 along the site frontage to Council's specification and in accordance with the development consents for DA/88/2016 and DA/662/2016.
 - Construct proposed road ST3 & ST4 for the full site frontage to Council's specifications, requirements and in accordance with the development consents for DA/88/2016 and DA/662/2016.

- d) Construct proposed laneway PL1 for the full site frontage to Council's specifications, requirements and in accordance with the development consents for DA/88/2016 and DA/662/2016.
 - e) Install any traffic management treatments and/or signage in the streets fronting and surrounding the development site to Council's specification.
142. 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.
143. 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

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

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

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

Undergrounding of Power

145. All telecommunication cables and power cables located in Young Street and proposed roads ST3, ST4 DV1 and PL1 (fronting the development sites) must be

located underground. The applicant shall meet the full cost for all required undergrounding of power and telecommunication cables. The applicant shall liaise directly with the relevant service utility authorities to organise for the cables to be relocated. All cables must be relocated underground to the satisfaction of the relevant service utility authority prior to the issuing of an occupation certificate for the development.

Stormwater Drainage

146. 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.
 - a. 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.
147. 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).
148. 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.
149. The applicant shall submit to the Principal Certifying Authority (PCA) and Council certification from a suitably qualified and experienced professional engineer, confirming that the walls of the basements have been fully tanked and waterproofed to prevent the entry of all groundwater in the basement level/s and that any required sub-soil drainage systems have been provided in accordance with the conditions of this consent. There must be no dry weather seepage/groundwater flows discharging to Council's street gutter or underground drainage system.

Landscaping

150. 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 Landscape Masterplan & Landscape Plans by Arcadia, dwg's 001-501, Issue C, dated Nov 2016, and Amended Landscape Masterplan & Softworks Plans for S3, by Arcadia, dwg 100-203, Issue A, dated Jan 2018, along with any other relevant conditions of consent.
151. Suitable strategies must also be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.

Site Arborist Certification

152. Prior to the issue of any Occupation Certificate, the Project Arborist must submit to, and have approved by, the PCA, a Final Compliance Report which confirms compliance with the conditions of consent, the Tree Protection Plan & Pruning Specification; the dates of attendance and works performed/supervised relating to retention of T160.

Waste Management

153. Operational Waste Management provisions for the development within Lot S1 shall be implemented in accordance with the Waste Management Plan for Lot S1 submitted with the development application (Prepared by Elephants Foot Revision B dated 6/10/2016), subject to any amendments required by Council's Waste Management Coordinator.
154. Operational Waste Management provisions for the development within Lot S2 shall be implemented in accordance with the Waste Management Plan submitted with the development application (Prepared by Elephants Foot Recycling Solutions Revision B dated 5/10/2016), subject to any amendments required by Council's Waste Management Coordinator.
155. Operational Waste Management provisions for the development within Lot S3 must be implemented in accordance with the Waste Management Plan submitted with the development application (Prepared by Elephants Foot Recycling Solutions Revision D dated 14/08/2017), subject to any amendments required by Council's Waste Management Coordinator.
156. Prior to the occupation of the development, the owner or applicant is required to contact Council's City Services department, to make the necessary arrangements for the provision of waste services for the development.
157. The waste storage areas shall be clearly signposted.

Road Dedication

158. The splay corners shall be dedicated as public road in accordance with the conditions of this consent prior to the issuing of a final occupation certificate.
159. The waste storage areas shall be clearly signposted.

Operational Requirements

160. A *Strata Parking Management Plan* must be developed and implemented for the development, which includes strategies and measures to 'self-manage' resident and visitor parking within the development.

Strategies and measures may include:

- Adoption of parking by-laws;
- Installation of suitable barriers, bollards, low-height fencing and gates;
- Installation of signage and notices;

- Intercom or key card systems;
- Security systems and security personnel;
- Enforcement processes and provisions to be implemented by the Owners Corporation/Strata Management

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.

Stormwater Detention/Infiltration System

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

Residential Parking Permits

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

Fire Safety Statements

164. A single and complete *Fire Safety Statement* (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the *Environmental Planning & Assessment Regulation 2000*.

The *Fire Safety Statement* must be provided on an annual basis each year following the issue of the *Fire Safety Certificate*, and other period if any of the fire safety measures are identified as a *critical fire safety measure* in the *Fire Safety Schedule*.

The *Fire Safety Statement* is required to confirm that all the fire safety measures have been assessed by a properly qualified person and are operating in accordance with the standards of performance specified in the *Fire Safety Schedule*.

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

165. Street numbering must be provided to the front of the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council.

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

Environmental Amenity

166. 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.
167. Any requirements contained within an Environmental Management Plan (EMP)

which forms part of the Site Audit Statement and Site Audit Report, form part of this consent and must be implemented accordingly.

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

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background (LA90), 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as an LAeq, 15 min and adjusted in accordance with the NSW Environmental Protection Authority's Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).

GENERAL ADVISORY NOTES

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

- A1 In keeping with the NSW EPA Auditor Guidelines, upon the completion of all Site Audit Statements being issued for the staged development, one overarching site audit statement is to be issued for the entire development site.
- A2 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.
- 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 9399 0944.
- A5 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA), Disability (Access to Premises – Buildings) Standards 2010 and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards. You

are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.

- A6 Any proposed amendments to the design and construction of the building may require a new development application or a section 96 amendment to the existing consent to be obtained from Council, before carrying out such works
- A7 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 9399 0944.

- A8 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.
- A9 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).

- A10 External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to any adjoining land.

Finished ground levels external to the building are to be consistent with the development consent and are not to be raised, other than for the provision of approved paving or the like on the ground.

- A11 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.
- A12 The necessary development consent and a construction certificate or a complying development certificate (as applicable) must be obtained for proposed external plant and equipment, if not included in this consent.

- A13 An application must be submitted to an approved by Council prior to the installation and operation of any proposed greywater or wastewater treatment systems, in accordance with the *Local Government Act 1993*.

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

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

- A15 The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.

- A16 Further information and details on Council's requirements for trees on development sites can be obtained from the recently adopted Tree Technical Manual, which can be downloaded from Council's website at the following link, <http://www.randwick.nsw.gov.au> - Looking after our environment – Trees – Tree Management Technical Manual; which aims to achieve consistency of approach and compliance with appropriate standards and best practice guidelines.

- A17 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.

- A15 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.

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

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

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