

COUNCIL ASSESSMENT REPORT

Panel Reference	2018ECI018.
DA Number	DA/887/2018
LGA	Randwick City Council
Proposed Development	Development Application Stage 2 development of Lots N1 and N2 of Newmarket site, including shop-top housing on Lot N1 with 3 buildings – 2 x 8 storey buildings fronting Barker Street with commercial uses and 49 carparking spaces at ground level, 74 basement level car parking spaces, a 3 storey shop top housing building at the southern end, landscaping and associated works. Lot N1 contains a total of 131 dwellings. Lot N2 is developed with a part two part 6 storey building containing 15 x two storey multi-dwellings at ground and first floor level, 30 dwellings above and 57 basement parking spaces, landscaping and associated works.).
Street Address	150-162 Barker Street, 1 Jane Street, 8-20 Young Street, RANDWICK
Applicant/Owner	Cbus Property Sydney Pty Ltd
Date of DA lodgement	29 November 2019
Number of Submissions	1: Notified from 16 January 2019 - 18 February 2019
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP State and Regional Development and Section 4.7 of the EP&A Act)	Development that has a capital investment value of more than \$30 million.
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • 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 (Building Sustainability Index BASIX) 2004 • Randwick Local Environmental Plan 2012 • Randwick Development control plan 2013 • Draft Voluntary planning agreement under section 93F (old reference)
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Attachment 1 – Clause 4.6 Variation Request • Attachment 2 Plans N1 Site • Attachment 3 Plans N2 Site
Report prepared by	Louis Coorey – Randwick Council S/Environmental Planning Officer
Report date	12 July 2019

Summary of s4.15C matters

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

Yes

Legislative clauses requiring consent authority satisfaction

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

Yes

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

Clause 4.6 Exceptions to development standards

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

Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **No**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **No**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Sydney Eastern City Planning Panel

SCPP No.	2018ECI018
DA No:	DA/887/2018, 150-162 Barker Street, 1 Jane Street, 8-20 Young Street, RANDWICK NSW 2031– for Integrated Development for Stage 2 development of Lots N1 and N2 of Newmarket site, including shop-top housing on Lot N1 with 3 buildings – 2 x 8 storey buildings fronting Barker Street with commercial uses and 49 carparking spaces at ground level, 74 basement level car parking spaces, a 3 storey shop top housing building at the southern end, landscaping and associated works. Lot N1 contains a total of 131 dwellings. Lot N2 is developed with a part two part 6 storey building containing 15 x two storey multi-dwellings at ground and first floor level, 30 dwellings above and 57 basement parking spaces, landscaping and associated works.
Applicant:	Cbus Property Sydney Residential Pty Ltd
Report By:	Louis Coorey

1. Executive Summary

Council is in receipt of a development application (DA) seeking consent for development of Northern Precinct of "Newmarket Site" site divided into two development lots identified as Lots N1 and N2 in the Concept Plan approval (DA/88/2016). Lot N1 is sought to be developed for three shop-top housing developments containing two x 8 storey buildings fronting Barker Street identified as N1.1 and N1.2 and a three storey shop-top housing development identified as building N1.3 located south west of N1.1 and N1.2. Lot N2 is to the south of Lot N1, separated by a new road "ST2", is sought to be developed for 15 x two storey Multi-Unit Housing (MUH) at ground and first floor levels and 4 additional storeys above a portion of the MUH portion containing 30 dwellings above.

The subject DA is referred to the Sydney Eastern City Planning Panel (SECPP) for determination, pursuant to Section 4.5, of the Environmental Planning and Assessment Act 1979 and Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 as the General development has a capital investment value of \$94m in excess of \$30 million threshold.

The Concept Plan approval (DA/88/2016) for the "Newmarket Site" provides for a mixed use and residential development on the subject site comprising the following:

- Site preparation including demolition of structures, removal of vegetation and excavation, site remediation;
- Subdivision into 9 development lots, road infrastructure and public domain conceptual layout including a 5,000sqm public park within the eastern precinct and four new public streets intersecting from Young, Jane (SP2) and Botany Streets.
- A set of built form controls (dwelling types, storeys, heights, setbacks and landscape areas) guiding a range building forms 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 Heritage items identified as the 'Newmarket House' at the southern precinct, the 'Big Stable Building' opposite the southern precinct and The Sales Ring.
- The Newmarket site is subject to a voluntary planning agreement (VPA) 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 does not alter the terms of the VPA.

This staged DA for development Lots N1 and N2 are located at 150-162 Barker Street, 1 Jane Street, 8-20 Young Street, RANDWICK NSW 2031. Lot N1 will have a site area of 5,151sqm and Lot N2 will have a site area of 2,971sqm (excluding the existing and new roads).

The proposal on Lot N1 at the northern end of the site is for the construction of 3 buildings – two x 8 storey buildings fronting Barker Street (N1.1 & N1.2) with ground level commercial premises and 49 carparking spaces, 74 basement car parking spaces, a total of 110 dwellings, and a 3 storey shop top housing building (N1.3) at the southern end containing 21 dwellings, landscaping and associated works.

The proposal on Lot N2 at the southern end of the northern precinct separated by a new road (ST2) is for a six storey residential flat building containing 15 x two storey MUH at ground and first floor level and 30 dwellings above, 57 basement parking spaces, landscaping and associated works.

No heritage items are located within the northern precinct of the 'Newmarket Site' development site, however the northern precinct is located within the eastern part of the Struggletown Heritage Conservation Area and development lots N1 and N2 are in close proximity to heritage items within the Newmarket Site and several private properties.

Within the Newmarket Site, the heritage items of significance are described as the 'Big Stable Newmarket' (I458) a state heritage item located at the south eastern end of the Newmarket Site, a local heritage item described as 'Newmarket House' (I466) opposite Lot N2 and further east 'Newmarket sale ring' (I292). Private heritage items are located at No's. 84, 88 and 90 Middle Street, 11 and 15 Jane Street and 22 Young Street.

Significant street trees are the subject of appropriate conditions requiring their protection and retention.

The subject application was publicly exhibited (advertised within the local newspaper and site notifications attached to the subject premises) as per the requirements of the Randwick Comprehensive Development Control Plan 2013 (RDCP) for Public Notification. One submission was received raising issues with the density, size and scale of buildings, traffic & parking and loss of amenity for neighbouring properties.

The subject application includes a request under Clause 4.6: Exceptions to Development Standard relating to buildings N1.1 and N1.2 encroaching over the 25m maximum height of building standard in the Randwick Local Environmental Plan 2012 (LEP). The maximum encroachments occur for lift overruns of both buildings N1.1 by 2.9m and building N1.2 by 3.32m, which are setback from the property boundaries by around 11m. The main built form associated with level 7 (setback from level 6 below) encroaches by lesser amounts by between 1.58m and 2.2m over the height limit running west to east.

The application contains a Clause 4.6 seeking a variation to the height of buildings standard. The Clause 4.6 suitably demonstrates sufficient environmental planning grounds in support of the variation. In brief, the proposed height is consistent with the existing and desired streetscape character in that it will have a height that is more consistent with the higher than LEP approved heights in the Concept Plan approval. The proposal will also have a height that is more consistent with the approved development (DA/664/2016) for two x 8 storey buildings within the eastern precinct of the Newmarket Site. The variation results in a better planning outcome for the streetscape and does not result in adverse impacts on the amenity of neighbouring properties beyond those envisaged by compliance with the concept plan approval.

Notwithstanding the above, the proposal does however encroach beyond the approved building envelope controls by reducing separation between buildings N1.1 and N1.2 from the approved 12m separation down to 6m. The reduced separation is satisfactory with regard to design and amenity. In terms of design, no objections were raised by the Design Excellence Panel (DEP). In terms of amenity, the applicant justifies the reduced separation is offset by reducing the depth of building N1.1 and the redistributed floor area will have a northern aspect ensuring a greater proportion of units across the development will retain solar access.

The subject application was referred to the DEP as per the requirements of *State Environmental Planning Policy 65: Design Quality for Residential Apartment Development*. The key issues raised by the DEP relates to providing a greater level of communal open space on building N1.3 (3 storey building on Lot N1) and request to provide an alternate roof top design for the 6 storey residential flat building on Lot N2 to distinguish this level from the three middle levels below creating a base related to the townhouses, a middle layer and an upper layer against the sky. The applicant does not seek to add any communal roof open space beyond that added by the shortening of the depth of building N1.1 and have put forward four options for an alternate roof design. The DEP have reviewed the applicant's submission indicating a preference for Option 2 'floating roof design' that is consistent with the predominant roof form in the LGA and other buildings in the Newmarket site and as such a condition is included requiring amended plans to be submitted for approval.

The applicant demonstrates a better planning outcome is being achieved by shortening the depth of building N1.1 which increases the area of communal open space at the podium level, improves both cross ventilation and solar access to a greater number of dwellings than if the separation had been complied with, resulting in greater amenity across the development of Lot N1 and N2. The proposed results in adequate acceptable relationship between habitable rooms in buildings N1.1 and N1.2.

Having regard to the key design principles in SEPP 65 and the Apartment Design Guide as well as the Concept Plan approval the proposal is considered to display a high level of compliance having particular regard to building envelopes, solar access, cross ventilation, privacy and minimising impacts on the neighbouring properties. Further, it is considered that the proposed development will have a built form and spatial relationship within the public and private domain that will become a contributing addition to the Newmarket Site as a whole.

The application is recommended for approval subject to appropriate conditions.

2. Site Description and Locality

The Newmarket 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 of the Northern Precinct). The Newmarket site as a whole is bound by roads including, Young, Jane, Botany, Barker, Middle and Meeks Street:

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.

The subject DA is situated on Lots N1 & N2 at the northern end of the site known as the northern precinct, at 150-162 Barker Street, 1 Jane Street, 8-20 Young Street, Randwick. Lot N1 will have a site area of 5,151sqm, Lot N2 will have a site area of 2,971sqm (excluding the existing and new roads) identified in Figure 2 below. The site currently accommodates a large single-storey horse stable with associated landscaping and structures.

The northern precinct is bounded by Barker Street to the north, Young Street to the east, Jane Street to the west and Middle Street to the South. 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 Jane Street and to the south along Middle Street are single and two storey dwelling houses. To the east is the eastern precinct. Developments to the north of Barker Street, the Prince of Wales Hospital Precinct. See Figure 2 of the site and surrounds.



Figure 1: Newmarket site identifying northern, southern and eastern precincts (Source: Urbis SEE)



Figure 2: N1 & N2 Site & surrounds (Source: Urbis SEE)

3. Relevant History

DA/88/2016: Concept plan development approval (subject of a S34 agreement pursuant to the Land & Environment Court Act) provides for a mixed use development on the 'Newmarket' site depicted above in Figure 3 comprising the following:

- Site preparation including demolition of structures, removal of vegetation and excavation, site remediation;
- Subdivision into 9 development lots, road infrastructure and public domain conceptual layout including a 5,000sqm public park within the eastern precinct and four new public streets intersecting from Young, Jane (SP2) and Botany Streets.
- A set of built form controls (dwelling types, storeys, heights, setbacks and landscape areas) guiding a range building forms 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 Heritage items identified as the 'Newmarket House' at the southern precinct, the 'Big Stable Building' opposite the southern precinct and The Sales Ring.
- The Newmarket site is subject to a voluntary planning agreement (VPA) 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 does not alter the terms of the VPA.

The approved scheme allowed exceedances of the 25m maximum height standard in the Randwick Local Environmental Plan 2012 (RLEP) at the northern end of the site (DA/887/2018 subject application) within the northern and eastern precincts (DA/664/2016 and further in DA/664/2016/a). 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 at the southern end of the eastern precinct to Council. Figure 3 below indicates the approved buildings envelopes and the urban structure associated with the Concept Plan approval.

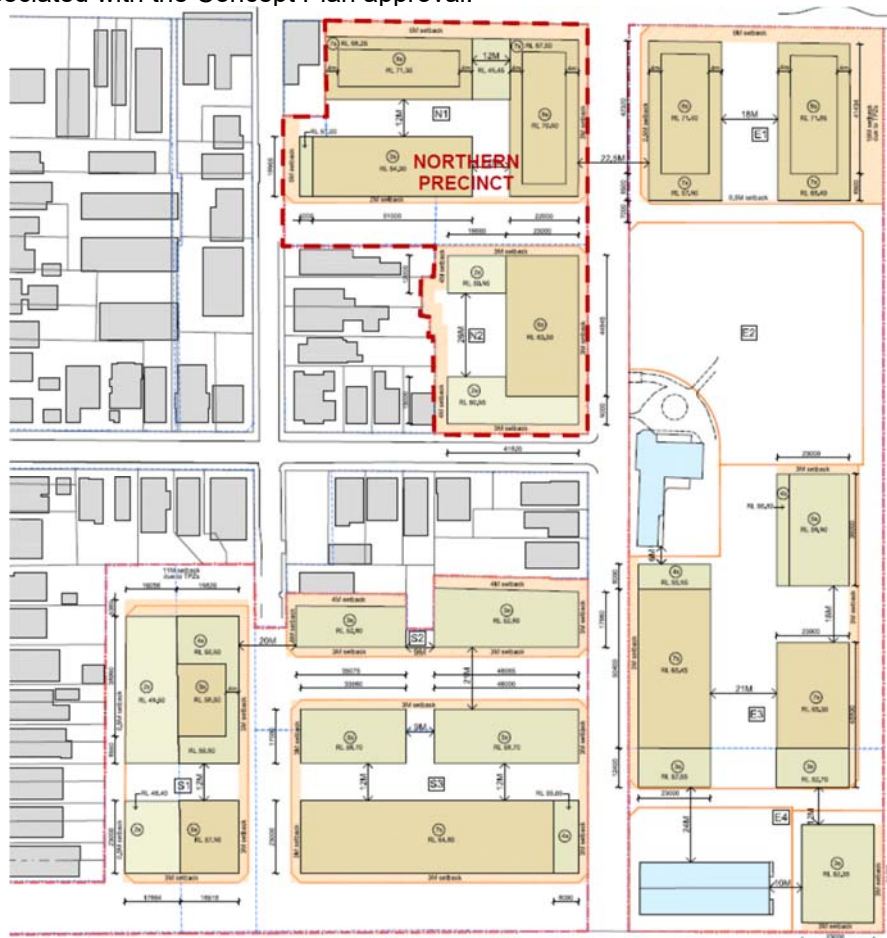


Figure 3: Approved building envelope plan, northern precinct is associated with development lots N1 & N2 (Source Urbis SEE).

DA/662/2016: This application was approved by Council on 8 August 2017 and proposed Stage 2 “integrated” development works. The proposed works involved the following:

- Remediation works across the site.
- Site Enabling, Civil and road infrastructure works.
- Subdivision into nine (9) development lots, one (1) public open space lot and four (4) public road lots.
- Provision of a 5,006sqm public park (refer to Figure 6).
- Construction of new roads and in-ground infrastructure and associated services.
- Demolition of some of the existing stable buildings.

DA/664/2017: This application was approved on 17 August 2017 and involved the demolition of existing structures and construction of a 2 x eight (8) storey shop top housing development within lots E1.1 and E1.2 including ground floor retail/commercial tenancies, 133 residential apartments, basement parking, an 18m wide urban plaza connecting Barker Street to the public park to the south, and associated remediation and landscaping works (refer to Figure 7 below for a visual representation of the approved development). 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.

DA/664/2017 A/B/C: Approve additional area to building E1 and E2,

A: Approved by the SECPP the Section 4.55 (2) modification to development application No. 664/2016 for increase in finished floor level at level 1 by 100mm, increase in roof plant height by 400mm, and a 1m southward extension of Level 7 southern apartments within buildings E1 and E2 located at the northern end of the eastern precinct.

B: Approved under delegated authority the Section 4.55 (1A) modification of the approved development by alteration to landscaping within retail plaza, layout of waste bin area and shops at south western ground level of building E1.2, reinstatement of loading bay at south eastern corner of building E1.2 for revivalists purposes only.

C: Seeking modification of the consent under Section 4.55 (1A) to modify condition 2(d) to relocate bicycle parking spaces and remove condition 31 to allow for the replacement of street trees on Barker Street.

DA/88/2017: Approved by the SECPP for the demolition of existing buildings and structures and construction of various built forms in the southern precinct of the Newmarket Site comprising residential flat buildings, shop top housing and terrace housing in Lots S1, S2 & S3.

DA/88/2017/A: Seeks modification of the consent under Section 4.55 (1A) in relation to lots S2 and S3. On Lot S2 the modifications relate to reconfiguration of the open space and landscaping removing shared vegetable garden and reallocating the space as private open space for the adjoining Unit S2-08. Residue open space will accommodate a substation and future POS for reconfigured dwellings to the east (subject of DA/41/2019). On Lot S3 the modifications relate to reconfiguration of 13 x 2 bedroom apartments at the south-western corner of the 7 storey flat building on the ground level and between levels 01 – 5 as follows:

- Ground level: two bedroom 2 x 2 bedroom units into 1 x 2 bedroom unit and study and 1 x 1 bedroom unit.
- Level 1 – Level 5: 2 x 2 bedroom units into 3 x 1 bedroom units

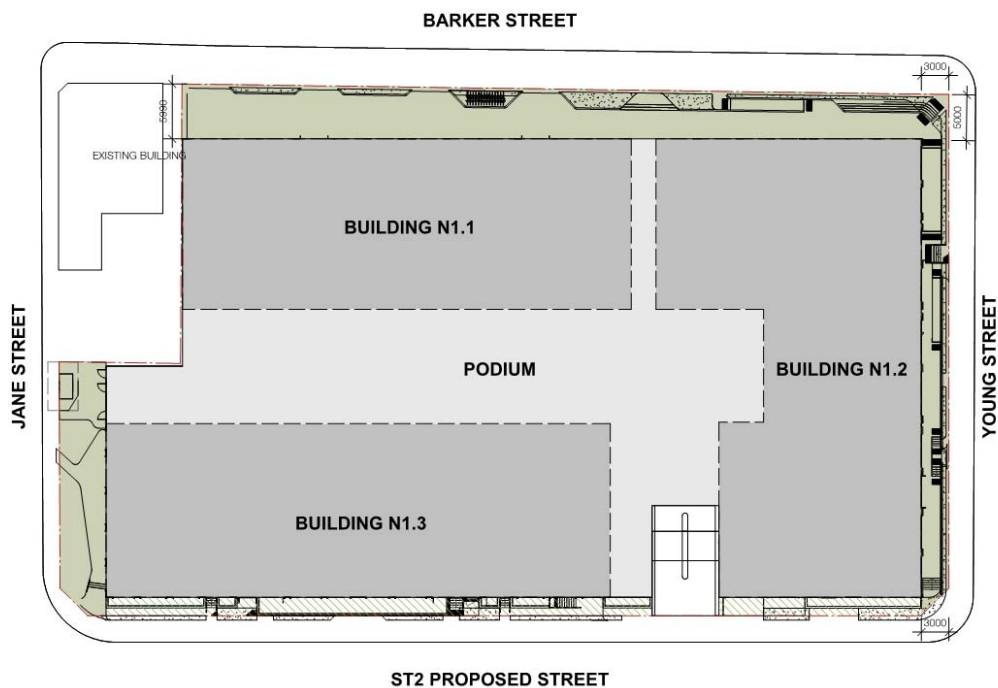
DA/41/2019: Application seeking the conversion of 2 residential flat buildings in S1 and S2 into townhouses.

DA/250/2019: Seeks consent for the installation of signage at Newmarket Green including building identification signage, retail signage, way finding signs and precinct identification signs facing Barker Street (heritage item, Heritage Conservation Area).

4. The Proposed Development

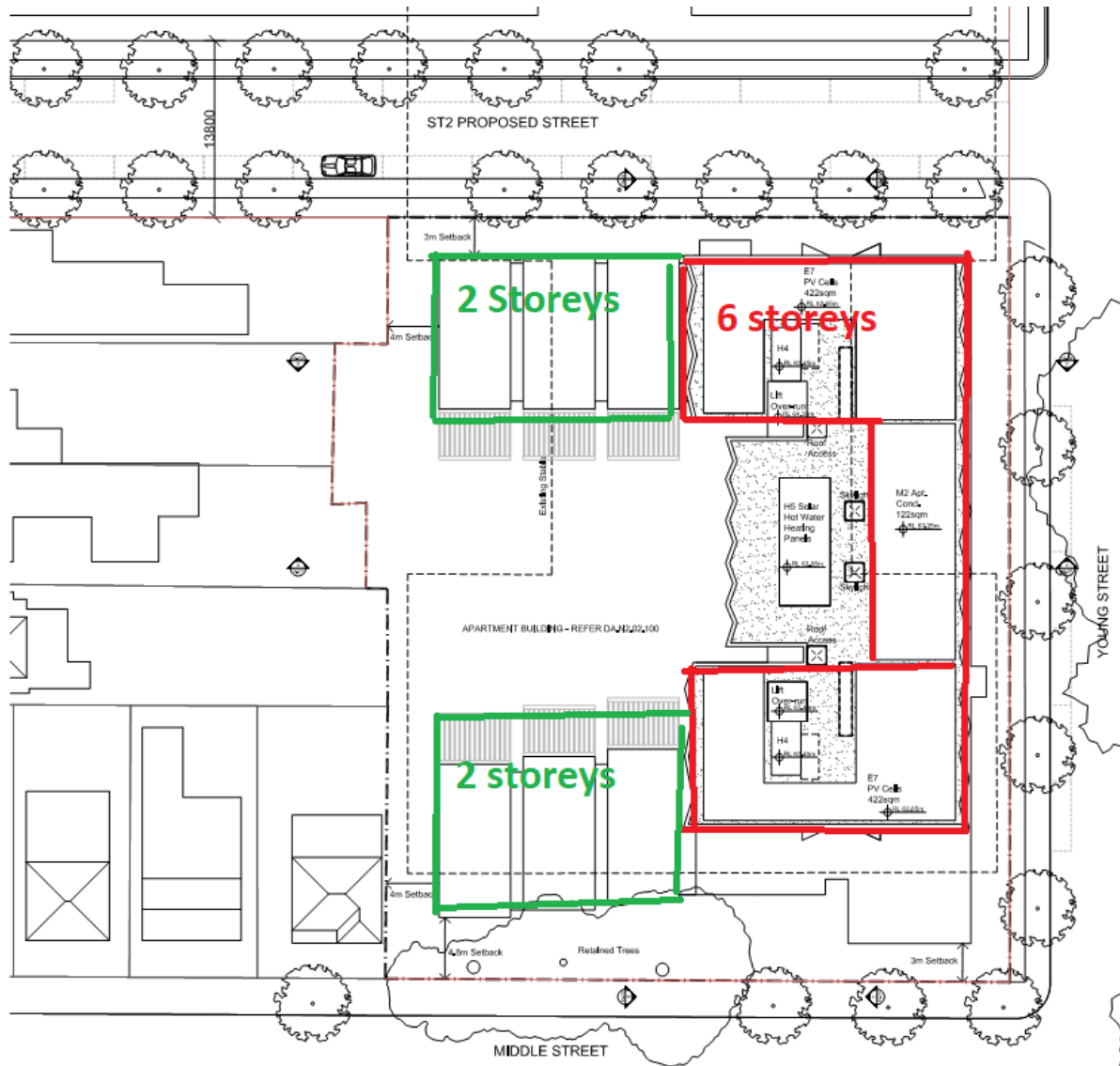
The proposed development comprises development of the northern precinct site comprising lots N1 and N2 and includes the following:

- Demolition of the existing buildings and structures;
- Excavation, remediation and other site preparation works;
- Lot N1: Construction of three buildings (up to 8 storeys) two 8 storey buildings fronting Barker Street (N1.1 & N1.2) with ground level commercial premises (1,329sqm) and 49 carparking spaces, 74 basement car parking spaces, a total of 110 dwellings, and a 3 storey shop top housing building (N1.3) at the southern end containing 21 dwellings, landscaping and associated works. Building N 1.1 contains 52 apartments (24 x 1-bedroom apartments and 28 x 2-bedroom apartments; Building N1.2 contains 58 apartments (24 x 1-bedroom apartments, 26 x 2-bedroom apartments and 8 x 3-bedroom apartments; Building N1.3 contains 21 apartments (15 x 1-bedroom apartments and 6 x 2-bedroom apartments. GFA of residential area is 10,733sqm.



Building arrangement in Lot N1 (excerpt courtesy Urbis)

- Lot N2: Construction of a single building between two and six storeys containing 15 x two storey MUH at ground and first floor level and 30 dwellings, 57 basement parking spaces, motorcycle and bicycle spaces, landscaping and associated works. GFA is 5,021sqm. Site plan excerpt on next page shows the outline of the proposal.
- Associated infrastructure and landscaping works.



Site plan excerpt of Lot N2 (Courtesy Urbis)

Photomontages

Lot N1



Figure 4: Building N1.2 in foreground looking from Barker Street towards south-west corner.



Figure 5: Building N 1.1 in foreground looking from Barker Street towards south-east corner of Jane Street showing corner building at No. 148 Barker Street.



Figure 6: Building N1.2 in background looking northward from Young Street showing also building N1.3 and N2.



Figure 7: Building N1.3 in foreground looking north easterly direction from Jane Street.

Lot N2



Figure 8: Building N2 looking from Young Street.



Figure 9: Looking from Middle Street south facing two storey multi unit dwellings and six storey building in background

5. Clause 4.6 exception to a development standard

The proposal seeks to vary the following development standard contained within the Randwick Local Environmental Plan 2012 (RLEP 2012):

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
Cl 4.3: Building height (max)	25m	N1.1 27.75m N1.2 29.45m	2.75m 4.45m	11% 17.8%
Concept plan approval (Stage 1 – DA/88/2016)	N1.1 27.05m N1.2 28.3m	As above to RL72.05	700mm 1.42m	2.5% 5%



Figure 10: Northern elevation showing parts of the scheme exceeding the maximum height approved in the concept plan approval.

Clause 4.6 of RLEP 2012: Exception to a Development Standard relevantly states:

3. *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.*
4. *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is 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*
 - (b) *the concurrence of the Secretary has been obtained.*

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ summarised the matters in Clause 4.6 (4) that must be addressed before consent can be granted to a development that contravenes a development standard.

1. *The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 reinforces his previous decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 where he identified five commonly invoked ways of establishing that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. The most common is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

2. *The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.*

Chief Justice Preston in ***Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 reinforces the previous decision** in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC

90 regarding how to determine whether 'the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard'.

The grounds relied on by the applicant in their written request must be "environmental planning grounds" by their nature. Chief Justice Preston at [23] notes the adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s1.3 of the EPA Act.

Chief Justice Preston at [24] notes that there here are two respects in which the written request needs to be "sufficient".

1. The written request must focus on the aspect or element of the development that contravenes the development standard, not the development as a whole (i.e. The written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole); and
2. The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31] Judge Pain confirmed that the term 'sufficient' did not suggest a low bar, rather on the contrary, the written report must address sufficient environmental planning grounds to satisfy the consent authority.
3. *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.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [27] notes that the matter in cl 4.6(4)(a)(ii), with which the consent authority must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii).

4. *The concurrence of the Secretary has been obtained.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [28] notes that the other precondition in cl 4.6(4) that must be satisfied before consent can be granted is whether the concurrence of the Secretary has been obtained (cl 4.6(4)(b)). In accordance with Clause 4.6 (5), in deciding whether to grant concurrence, the Secretary must consider:

- (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

Under clause 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6 (subject to the conditions in the table in the notice).

The approach to determining a clause 4.6 request as summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, has been used in the following assessment of whether the matters in Clause 4.6(4) have been satisfied for each contravention of a development standard.

5.1 Exception to the Height of Buildings (HOB) development standard (Cl 4.3)

The applicant's written justification for the departure from the FSR standard is contained in Appendix 1.

1. Has the applicant's written request adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?

The applicant's written request seeks to justify the contravention of the HOB development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant objectives of the standard are still achieved.

The objectives of the HOB standard are set out in Clause 4.3 (1) of RLEP 2012. The applicant has addressed each of the objectives as follows:

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

The applicant's written justification demonstrates that this objective is satisfied by noting that

Chapter E5 of the Randwick DCP 2013 sets out the following vision for the 'Newmarket Green' site: 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.

Further, the DCP states the following in relation to the 'Barker Street Precinct':

This is the most urban precinct reflecting the growth and scale of the Randwick Education and Health Specialised Centre. Focused on Barker Street, non-residential uses at the ground floor should create an active and vibrant interface along the street frontage. Active uses, with shop-fronts and outdoor seating, are encouraged on the ground floor.

Along Barker Street, buildings to a maximum height of 25 metres will provide a balance to the adjacent Hospital and create a prominent building alignment along Barker Street.

The proposed development has been designed to achieve the desired future character for the Barker Street precinct and will deliver the key elements through the proposed site layout, built form massing and open space provision.

The increases in building height have been specifically located to ensure the precinct specific objectives will continue to be met through the response to the surrounding residential interface and the heritage significance of the site and surrounds.

The height of buildings proposed are consistent with the adjacent Neuroscience Research Precinct, which contains buildings up to 31.7metres in height or RL 76.2 AHD. The proposed Barker Street buildings will have a maximum RL of 72.05m AHD.

Buildings N1.1 and N1.2 have been designed to reflect the scale of the adjacent development and create a prominent building alignment along Barker Street that is 'in balance' with the Neuroscience building and approved buildings on Lot E1. The urban scale of these buildings will contribute to the directions and expectations of the future of the Randwick Education and Health Specialised Centre.

The street wall along Barker Street does not exceed 25 metres, with the built form on the eighth level setback 4 metres from the Barker Street frontage. The proposed building elements above the approved building envelope are located towards the centre of the site and well separated from the Barker Street frontage.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that:

The elements of the built form that exceed the maximum building height 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.

A Heritage Impact Statement was prepared by OCP Architects in support of the Stage 1 concept master plan. 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 Lot N1 and have confirmed that the proposal is generally consistent with the concept master plan and will not impact on the heritage significance of the adjoining conservation area.

- (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.*

The applicant's written justification demonstrates that this objective is satisfied by noting that

The proposed built form, including the building elements that exceed the maximum building height, have been 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 precinct.

The scale of the development is complementary to and compatible with the existing and planned future development in the vicinity of the site. The proposed building heights present an appropriate response to the taller building forms on the opposite side of Barker Street, which have a height of approximately 32m. As well as the approved development at Lot E1.

The proposed buildings have been designed to limit overshadowing to adjacent properties. The additional built form proposed will result in a minor, but not unreasonable, increase in afternoon overshadowing of the adjoining public open space. Shadow diagrams submitted with the DA identify the overshadowing resulting from the proposed additional built form. These shadow diagrams demonstrate that the additional built form proposed does not result in any unreasonable additional overshadowing when compared to a compliant built form. It is noted, there is a minor increase in overshadowing on the public open space to the south-east from 1-3pm. However, at least 50% of the public open space will continue to receive solar access from 8am to 2pm in mid-winter.

The elevation drawings submitted with the DA identify the proposed built form against the approved building envelope and maximum 25m building height. These drawings demonstrate that the proposed increase in building height does not relate to an entire residential level. Rather, the exceedance primarily relates to the upper section of the centralized eighth residential level, the building parapet, plant and lift overrun. Further, the eighth level is setback from the building edges thus reducing the perceived height of the buildings from the street level and surrounding vantage points. Adequate separation distances are provided between buildings which reduces the potential for overlooking and loss of privacy.

Assessing officer's comment:

Objective a)

The proposed development will result in a breach of the height of buildings development standard at its highest point by 2.75m for building N1.1 and 4.45m for building N1.2. However, the proposed buildings will mostly remain within the envelope approved pursuant to the Concept Plan (DA/88/2016) with the exception of small encroachments associated with parapet and plant such as lift overrun and solar arrays. The Design Excellence Panel and Councils Heritage Planner raise no objections to the overall bulk and scale of the development as it relates to these two buildings. The variation does not result in any adverse amenity impacts and the size and scale of the buildings will be consistent with the desired future character that is anticipated by the height standard. The encroaching elements occur at the upper level (8th storey) of the buildings which have been setback 3.4m to 3.5m from the edges of the level below. The upper level is recessive and secondary in size to the volume of the dominant built form and the presence of the upper levels will not be readily apparent in the context of the streetscape. The proposed buildings will present a

predominant street wall height of 7 storeys which is consistent with the maximum 25m height. The proposal provides for a coherent scale of buildings along Barker Street as the eastern lots within the eastern precinct of the Newmarket site are approved to similar heights with an upper level setback. The proposal will also respectfully transition from the higher Neurosciences building across from the site (approved to RL76.2). The proposed development is therefore considered to be consistent with the existing and desired future character of the area.

Objective b)

The proposed development is compatible with the scale and character of nearby heritage items and Struggletown Heritage Conservation Area (SHCA). Council's Heritage Planner advises no objections to the proposed bulk and scale of the two 8 storey buildings.

Objective c)

The assessment that must be made is whether or not the development will adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views. An assessment is carried out as follows having regard to the encroachments above the height standard:

- Visual bulk: The development presents as a 7 storey building with a recessed upper level. The encroachments are predominately setback from the levels below and the encroaching elements will not be immediately perceived when viewed from neighbouring properties or the public domain.
- Loss of privacy: An assessment of privacy impacts is provided in this report which indicates that the proposed elements associated with the encroachments will not result in any unreasonable adverse privacy impacts.
- Overshadowing: An assessment of the overshadowing impacts is provided in this report. The applicant has demonstrated that the proposed development will not result in any appreciable increase in overshadowing of the neighbouring properties. The very minor additional impacts on the public open space are acceptable. Moreover it is noted that the application includes roof solar panels a sustainable energy efficiency outcome.
- Views: No objections have been raised by nearby property owners with regards to view loss. Notwithstanding, the proposed HOB will not result in any view loss from neighbouring properties.

Based on the above assessment, it is considered that development will not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

In conclusion, the applicant's written request has adequately demonstrated that compliance with the floor space ratio development standard is unreasonable or unnecessary in the circumstances of the case.

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

The applicant's written request seeks to demonstrate that there are sufficient environmental planning grounds to justify contravening the HOB development standard as follows:

There are sufficient environmental planning grounds to justify the proposed variations to the development standard, including the following:

- *A superior outcome for the community with a preferred built form arrangement that aligns with the vision for the wider Newmarket Green precinct.*
- *The Statement of Environmental Effects submitted with the DA demonstrates that any impacts associated with the proposed development are acceptable, particularly because there are no*

significant solar access impacts on neighbouring properties or the public domain resulting from the additional building height.

- *The variation does not result in unreasonable adverse amenity impacts on adjacent land.*
- *The variation does not diminish the development potential of adjacent land.*
- *The development is compliant with the floor space ratio development standards.*
- *The scale of development is appropriate given the significance of the site and its context as part of the Randwick Specialised Health and Education Precinct.*
- *The proposed variation does not impact on the perceived bulk or scale of the development. The buildings have been designed to address the character of the site and the future surrounding land uses.*

In conclusion, there are sufficient environmental planning grounds to justify convening the development standard.

Assessing Officer's comment: The environmental planning grounds provided by the applicant are considered to justify the variation to the development standard having particular regard to the elements specific to the site such as alignment with the existing development on the eastern precinct and transition from the larger Neuroscience building. In addition, the aspects of the development that contravene the development standard relate to minor protrusions above the height standard are envisaged by the envelope approved heights with only minor protrusions relating to parapets and plant and equipment.

In conclusion, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

3. 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?

To determine whether the proposal will be in the public interest, an assessment against the objectives of the height of buildings standard and B1 Neighbourhood Centre zone is provided below:

Assessment against objectives of height of buildings standard

For the reasons outlined in the applicant's written request, and assessment officer's assessment above the development is consistent with the objectives of the HOB standard.

Assessment against objectives of the B1 Neighbourhood Centre zone

The objectives of the B1 Neighbourhood Centre zone are set out in Land use section of RLEP 2012. The applicant has addressed each of the objectives as follows:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*

The proposed development provides small-scale retail uses at the ground floor, originated towards the street frontages. The proposed built form above the specified maximum building height will not affect the proposal's consistency with this objective.

- *To enable residential development that is well-integrated with, and supports the primary business function of, the zone.*

The proposal incorporates a range of apartment types and sizes located above the ground floor retail land uses. The proposed residential development is integrated with the proposed ground floor retail land uses. The proposed built form above the specified maximum building height will not affect the proposal's consistency with this objective.

- *To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.*

The proposed built form has been designed to limit overshadowing to adjacent properties, as well as the future public open space to the southeast. The shadow diagrams submitted with the DA demonstrate that the eight-storey component and additional built form above the maximum building height does not create any discernible impact when compared to a built form that is compliant with the maximum building height or approved building envelope for the site. The proposed building elements above the maximum height of buildings are located towards the centre of the site and are setback from the boundaries of the site. As a result, there are no issues with overlooking or loss of privacy attributed to the non-compliance. The proposed built form above the specified maximum building height will not affect the proposal's consistency with this objective.

Assessing officer's comment: The proposed development will be consistent with the objectives of the B1 Neighbourhood Centre zone having regard to the following:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*

The proposed development 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 B1 zone and the neighbouring zones. The design of the development has been well integrated with the surrounding residential zones.

- *To enable residential development that is well-integrated with, and supports the primary business function of, the zone.*

The proposed development continues to be consistent with the comprehensive redevelopment of the Newmarket site primarily for residential purposes. The proposed development provides a variety of housing types and densities including multi-unit housing and residential flat buildings of various sizes and configurations. The variation to the standard does not alter this outcome. The development as a whole provides for around 654 dwellings across the Newmarket Site which falls within the envisaged number of dwellings in the concept plan approval. The wider development is subject of a planning agreement providing affordable housing at a rate of 1.5%. Sufficient open space is provided for each site. Retail spaces and communal areas provide land uses at ground level that will readily meet the needs of residents.

- *To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.*

The proposal will provide for appropriately sized and scaled buildings that will not result in any significant or unreasonable adverse impacts to nearby residents. The variation is recessed from the levels below and associated with built form that is appropriate for the size and scale of development along Barker Street. The transition down to and separation from the lower scale buildings to the south and west will suitably minimise impacts of the development as a whole and protect the amenity of residents.

Overall, the development is consistent with the objectives of the height of buildings standard and the objectives of the B1 Neighbourhood Centre zone. Therefore the development will be in the public interest.

4. Has the concurrence of the Secretary been obtained?

In assuming the concurrence of the Secretary of the Department of Planning and Environment the matters in Clause 4.6(5) have been considered:

Does contravention of the development standard raise any matter of significance for state or regional environmental planning?

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

Is there public benefit from maintaining the development standard?

Variation of the maximum floor space ratio standard will allow for the orderly use of the site and there is a no public benefit in maintaining the development standard in this instance.

Conclusion

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(4) have been satisfied and that development consent may be granted for development that contravenes the FSR development standard.

6. 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 One (1) submission from 12/80 Middle Street was received.

The issues raised in the submissions are addressed below:

Issues	Comments
Adverse impact of the increased demand for parking and increased traffic congestion in association with traffic on school days and movement of emergency vehicles.	<p>The proposed density across the Newmarket Site is generally consistent with the Concept Plan approval. 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 Development Engineer 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 Street and that forms part of the Concept approval. Traffic management was also 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.</p> <p>The current application is accompanied by a traffic and parking plan and the subject of review by Council's Development Engineer who raises no objections on the grounds of traffic generation. Ultimately, 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.</p>

7. 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

Section 4.7

Section 4.7 identifies development where the Sydney Eastern City Planning Panel is the consent authority for regionally significant development. In this instance, the proposed development (identified as 'general') has a capital investment value (CIV) in excess of \$30 million pursuant to the provisions of State Environmental Planning Policy (State and Regional Development) 2011.

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

State Environmental Planning Policy (State and Regional Development) 2011

The provisions of SEPP (State and Regional Development) 2011 apply to the proposed development as its capital investment value is in excess of \$30 million. In accordance with the requirements of the SEPP and Section 4.7 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 Eastern City Planning Panel (SECPP).

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 standards, 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.

Clause	Requirement	Proposal	Compliance
Part 3: Siting the Development			
3A-1	Site Analysis		
	Each element in the Site Analysis Checklist should be addressed		Complies.
3B-1	Orientation		
	Buildings along the street frontage define the street, by facing it and incorporating direct access from the street		Complies.
	Where the street frontage is to the east or west, rear buildings should be orientated to the north		Complies with concept approval plan
	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		Complies with concept approval plan

Clause	Requirement	Proposal	Compliance
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	Good levels of solar access are provided to all communal and public open space parts of the development.	Complies
<p>Comment:</p> <p>The proposal narrows the separation between building N1.1 and N1.2 from the approved 12m down to 6m. As a result of a narrowing separation only 36% of the podium level communal open space area will receive solar access during the winter solstice which is less than the 50% minimum control in the Apartment Design Guide. The DEP requested consideration be given to providing a roof top communal open space on building N1.3 (3 storey building in Lot N1 south of buildings N1.1 and N1.2).</p> <p>The applicant in response has not sought to add communal roof open space on building N1.3 indicating concerns that the additional height will exceed the maximum height approved in the concept plan approval which would potentially erode the transition of built form to the lower density within the Struggletown Heritage Conservation Area (SHCA) to the west and south.</p> <p>The narrower separation is considered acceptable on the basis that it has been offset by the reduction in the depth of building N1.1 and reconfigured building N1.2 resulting in a better planning outcome, increasing communal open space by around 125sqm and more importantly resulted in more dwellings across Lot N1 obtaining solar access and cross ventilation. The narrowing of the gap between buildings N1.1 and N1.2 from the approved 12m separation down to 6m will result in more than 70% of dwellings receiving solar access for a minimum of 2 hours during the winter solstice.</p> <p>It is also considered that a roof top communal open space would result in adverse visual and acoustic privacy impacts that would require additional privacy measures to be provided and any additional structures would unnecessarily add bulk and scale that would detract from the significance and low scale of the SHCA.</p>			
	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 beyond that caused by the approved envelopes.	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 Randwick Comprehensive Development Control Plan (RDCP) and ADG respectively.	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. Where the proposal exceeds the envelopes such as with	Complies

Clause	Requirement	Proposal	Compliance
		building N1.1 and N1.2, there will be no appreciable increase in impacts.	
	Overshadowing should be minimised to the south or downhill by increased upper level setbacks		Not required
	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		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		Does not comply see comment below
Comment: –The height of retaining walls along site frontages extends beyond 1m in some parts by only small margins. The elevated ground levels above street level are a response to flooding and their massing is alleviated by with palisade fencing above, which ensure suitable levels 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
3D-1	Communal and Public Open Space		
	Communal open space has a minimum area equal to 25% of the site	N1: 17.7% (913sqm/5,151sqm) podium communal open space.	Does not comply however areas marginally less than 6m in depth and not

Clause	Requirement	Proposal	Compliance
		N2: 21% (622sqm/2,971sqm) communal open space	counted total 450sqm which if included would account for 26%.
<p>Comment:</p> <p>The communal open space provided for both N1 and N2 are considered to satisfy the ADG design guidance and are acceptable on merit for the following reasons:</p> <ul style="list-style-type: none">• The communal open space areas provides suitable amenity for the occupants.• The multi-unit dwellings have substantial areas of private open space that are above those required under the ADG and• The communal open space area provided has dimensions suitable 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 as is Paine reserve provide an area for more active recreational uses.			
	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)	N1: No, only 36% of the area receives direct sunlight access. N2: >50%	Does not comply, see comment below Complies
<p>Comment: The reduction in separation between buildings N1.1 and N1.2 from 12m down to 6m is partly responsible for the loss of solar access to the podium from the 49% that would be achieved by the 12m separation than the 36% resulting from the proposed 6m separation. The applicant has justified the reduction of solar access to the podium communal open space area as follows:</p> <ul style="list-style-type: none">• The proposal results in greater levels of solar access and cross ventilation across the two development sites beyond which was compromised by the concept plan approved building depths which exceed the maximum depths for suitable cross ventilation for apartments in the ADG.• The reduced building depths for building N1.1 will both add an additional 125sqm of communal open space and also ensure greater levels of cross ventilation for dwelling.• The proposal is merely seeking to redistribute floor area from the southern precinct which provided for substantially reduced GFA below that approved in the concept plan approval;• The proposal provides 125sqm more communal open space than that envisaged as part of the concept plan approval; <p>Overall, it is considered that the applicant's justifications suitably address the relevant design guidance in the ADG.</p>			
3E-1	Deep Soil Zones		
	Deep soil zones are to meet the following minimum requirements:		
	Site area	Minimum Dimensions	Deep Soil Zone (% of site area)
	<650m2	-	7%
	650-1500m2	3m	
	>1500m2	6m	
	>1500m2 with sig. existing tree cover	6m	
	N1: 4.5% N2: 7.6%		Does not comply Complies

Clause	Requirement	Proposal	Compliance
	<p>On some sites it may be possible to provide larger deep soil zones, depending on the site area and context:</p> <ul style="list-style-type: none"> - 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 		<p>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.</p>
<p>Comment:</p> <p>ADG design guidance indicates that where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structures which the proposal provides. 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. The deep soil provided through Lot N1 is considered acceptable and meets the design guidance provided for in the ADG for the following reasons:</p> <ul style="list-style-type: none"> • Lot N1 is approved for medium 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 provides. • The application includes a comprehensive landscape design scheme that compliments the presentation of the development from street level • The proposed podium level is considered to benefit the functioning of the site having regard to providing for ground level back of service functions for commercial retail uses and visitor parking • The podium communal area whilst not counted as deep soil will contribute to the presentation of the development within the site and neighbouring properties. • Landscaping provided compliments both private and public linkages throughout the site contributing to passageways and movement throughout the varying scales of development. 			
3F-1	Visual Privacy		
	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to	12m between N1.1 and N1.2 only 6m provided.	Does not comply However openings attached to habitable rooms are

Clause	Requirement	Proposal	Compliance												
	<div>the side and rear boundaries are as follows:</div> <table><tr><td>Building height</td><td>Habitable rooms and balconies</td><td>Non-habitable rooms</td></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		adequately screened.
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													
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.	Lot N1: 74% Lot N2: 43%	Complies. Does not comply see comment below												
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	N1: 3.3% N2: Nil	Complies												
Comment:															
The 6 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, may not be possible on some sites in certain circumstances. In this instance, building N1.3 living rooms are directed towards the open aspect of the park opposite to the east. In addition, the approved development in the eastern precinct permitted to 25m in height restrict solar access to this east facing living rooms of building N2.															
4B	Natural Ventilation														
	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	N1: 65% combined. N2: 73%	Complies. Complies												
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line		Complies												
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></table>	Minimum Ceiling height for apartment and mixed use buildings		Habitable rooms	2.7m	Non-habitable	2.4m	The apartments will achieve the minimum floor to ceiling height of 2.7 metres	Complies.						
Minimum Ceiling height for apartment and mixed use buildings															
Habitable rooms	2.7m														
Non-habitable	2.4m														

Clause	Requirement	Proposal	Compliance										
	<table><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> <p>These minimums do not preclude higher ceilings if desired.</p>	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.						
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												
	<p>Apartments are required to have the following minimum internal areas:</p> <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> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m2 each</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m2 each.</p>	Apartment Type	Minimum Internal Area	Studio	35m2	1 bedroom	50m2	2 bedroom	70m2	3bedroom	90m2		Complies
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 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	All habitable rooms comprise of a window opening and will not comprise with less than 10% of the floor area of the room.	Complies.										
	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		Complies										
	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 apartments		Complies										

Clause	Requirement	Proposal	Compliance															
	<ul style="list-style-type: none">4m for 2 and 3 bedroom apartments																	
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts		Complies															
4E	Private open space and balconies																	
	<div>All apartments are required to have primary balconies as follows:<table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio Apt.</td><td>4m2</td><td>-</td></tr><tr><td>1 bed Apt.</td><td>8m2</td><td>2m</td></tr><tr><td>2 bed Apt.</td><td>10m2</td><td>2m</td></tr><tr><td>3+ bed Apt.</td><td>12m2</td><td>2.4m</td></tr></table><p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p></div>	Dwelling Type	Minimum Area	Minimum Depth	Studio Apt.	4m2	-	1 bed Apt.	8m2	2m	2 bed Apt.	10m2	2m	3+ bed Apt.	12m2	2.4m	All dwellings have direct access to a private open space in the form of a balcony or courtyard and will provide a reasonable level of amenity to the occupants.	Complies on merit.
Dwelling Type	Minimum Area	Minimum Depth																
Studio Apt.	4m2	-																
1 bed Apt.	8m2	2m																
2 bed Apt.	10m2	2m																
3+ bed Apt.	12m2	2.4m																
	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																	
	<div>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:<table><tr><th>Dwelling Type</th><th>Storage Size Volume</th></tr><tr><td>Studio</td><td>4m3</td></tr><tr><td>1 bedroom</td><td>6m3</td></tr><tr><td>2 bedroom</td><td>8m3</td></tr><tr><td>3bedroom</td><td>10m3</td></tr></table><p>At least 50% of the required storage is to be located within the apartment</p></div>	Dwelling Type	Storage Size Volume	Studio	4m3	1 bedroom	6m3	2 bedroom	8m3	3bedroom	10m3		Complies					
Dwelling Type	Storage Size Volume																	
Studio	4m3																	
1 bedroom	6m3																	
2 bedroom	8m3																	
3bedroom	10m3																	

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.

Randwick Local Environmental Plan 2012:

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

Floor space ratio:

The proposed GFA for both N1 & N2 is 12,062sqm which in conjunction with the approved developments for E1 (12,181sqm), E3 & E4 (17,554sqm), S1, S2 & S3 (18,661sqm) the GFA will equate to a total of 60,458sqm which equates to 1.19:1, short of the 1.3:1 (65.824 sq.) permitted as part of the concept plan approval.

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 Local Environmental Plan (LEP). 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. The subsequent Concept Plan approval granted under DA/88/2016 addressed the provisions of the site specific DCP and provides another layer of specificity in terms of the site's urban structure and resultant built form. The proposed development is generally consistent with the terms of the Concept Plan approval. 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.

Considerations that remain relevant in the Randwick DCP to the proposal include: Part C4 adaptable housing and Part C2, medium density residential development. The provisions for adaptable housing 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 medium density residential development, the table below contains an assessment against the relevant provisions.

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 40m2) 1.2 spaces per 2-bedroom unit 1.5 spaces per 3- or more bedroom unit 1 visitor space per 4 dwellings		Acceptable as per Development Engineer's comments in the referral section.

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

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.		Complies
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.	N1: 42.5% of the site (1930sqm) is landscaped area N2: 42.7% of the site (764sqm) is landscaped area	No, see comments below Complies
<p>Comment: The MUH do not meet the 50% minimum required under the RDCP. 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 MUH 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>The proposed landscaping provided throughout the sites will satisfy the above objectives for the attached multi-unit housing developments for 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. • 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 ADG table. The permeable areas associated with multi-unit dwellings are considered to be acceptable.
	(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.		
	(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understory planting.		
	(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.		
	(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.		
2.3	Private and communal open space		
2.3.1	Private open space		
	<p>Private open space is to be:</p> <ul style="list-style-type: none"> (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 	<p>Each of the developments contains suitable areas of private open space for each dwellings.</p> <p>A proportion of private open space is capable of received good amounts of solar access.</p>	Complies
3	Building Envelope		
3.4	Setbacks		
3.4.1	<p>Front setback</p> <ul style="list-style-type: none"> (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.	Complies
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>	The setbacks are generally consistent with the setbacks approved under the concept plan.	Complies
3.4.3	Rear setback		
	For residential flat buildings, provide a minimum rear setback of 25% of allotment depth or 8m, whichever is the lesser.	The setbacks are generally consistent with the setbacks approved under the concept plan.	Complies
4	Building Design		
4.1	Building façade		
	<ul style="list-style-type: none"> (i) Buildings must be designed to address all street and laneway frontages. (ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout. (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. (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. (vi) Conceal building services and pipes within the balcony slabs. 		<p>Complies</p> <p>Complies</p> <p>Complies</p> <p>Complies</p> <p>Complies</p>
4.2	Roof design		
	<ul style="list-style-type: none"> (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. (ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access. (iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape. 		<p>Complies</p> <p>Complies</p> <p>Complies – conditioned</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>	Stepped in elevations and voids relieve massing. See heritage planner comments	<p>Complies</p> <p>Complies</p>
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.		NA
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.		Complies
4.5	Pedestrian Entry		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.		Complies
	<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). 		Complies
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 	Natural light is maximized for each attached dwelling taking into account the orientation.	Complies

	<p>doors and apartment entry doors.</p> <ul style="list-style-type: none"> - 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. 		
4.9	Colours, materials and finishes		
	<ul style="list-style-type: none"> (i) Provide a schedule detailing the materials and finishes in the development application documentation and plans. (ii) The selection of colour and material palette must complement the character and style of the building. (iv) Use the following measures to complement façade articulation: <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. (v) Avoid the following materials or treatment: <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 (vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration. (vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used. 		Complies - conditioned
	<p>Retaining walls</p> <ul style="list-style-type: none"> (iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries. (v) Step retaining walls in response to the natural landform to avoid creating monolithic structures 		Complies.

	(vi) visible from the neighbouring properties and the public domain. 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 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.	N2: all receive 3 hours	Complies
	(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 of the neighbouring properties.	Complies
5.2	Natural ventilation and energy efficiency		
	(i) Provide daylight to internalised areas within each dwelling and any poorly lit habitable rooms via measures such as ventilated skylights, clerestory windows, fanlights above doorways and highlight windows in internal partition walls.		Complies
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.		Complies
	(iii) All habitable rooms must incorporate windows opening to outdoor areas. The sole reliance on skylight or clerestory windows for natural		Complies

	lighting and ventilation is not acceptable.		
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.		Complies
5.3	Visual privacy		
	<ul style="list-style-type: none"> (i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings. (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. (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. (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. (v) Incorporate materials and design of privacy screens including: <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 windows of the adjacent dwellings - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 		Complies
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 		Complies
5.5	View sharing		

	<p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain.</p> <p>(v) Adopt a balanced approach to privacy protection and view sharing, and avoid the creation of long and massive blade walls or screens that obstruct views from the neighbouring dwellings and the public domain.</p> <p>(vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.</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	
5.6	Safety and security		
	(i) Design buildings and spaces for safe and secure access to and within the development.		Complies
	(iii) For attached dwellings single garages are permissible where they are recessed behind the front façade		Complies
	(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.		Complies
	(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		Complies

	<p>wear and tear and natural weathering.</p> <p>(ii) Sandstone fencing must not be rendered and painted.</p> <p>(iii) The following materials must not be used in fences:</p> <ul style="list-style-type: none"> - Steel post and chain wire - Barbed wire or other dangerous materials <p>(i) Expansive surfaces of blank rendered masonry to street frontages must be avoided.</p>		
7.2	Front Fencing		
	(i) The fence must align with the front property boundary or the predominant fence setback line along the street.		Complies
	(ii) The maximum height of front fencing is limited to 1200mm, as measured from the footpath level, with the solid portion not 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.		Complies
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>		Complies
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> <ul style="list-style-type: none"> (a) 1-bedroom- 6m³ (a) 2-bedroom— 8m³ 		Complies

	(b) 3 plus bedroom – 10m3		
7.7	Laundry facilities		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.		Complies
	(ii) Provide internal laundry for each dwelling unit.		Complies

• **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.

8. 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	Submission has been addressed in the body of this report

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

9. Technical advice: Internal and External

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

Council's Design Excellence Panel (DEP) reviewed the proposal and made comments for Lot N1 and Lot N2 separately.

Lot N1 comments

PANEL COMMENTS

This is a Development Application for demolition existing structures, construction of 3 residential and retail buildings ranging from 3 to 8 storeys, including Buildings N1.1, N1.2 and N1.3. A Pre-Development Application (Concept Plan Review) was lodged with Council for review in June 2017 and a set of comments was issued by the Panel.

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 eight stories. Immediately to the east of the precinct 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 precinct.

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. To the east of the 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, along with the original Sales Ring and parade areas, are important parts of the public domain experience and heritage re-use of the precinct, setting up a visual axis extending from Barker Street through to the south end of the precinct.

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 across Barker Street from the site.

The site itself fronts Barker Street and is immediately adjacent to a two storey shop top business property at the corner of Barker and Jane Streets. It essentially occupies a full block between Young and Jane Streets.

Principle 2: Scale and Built Form

The proposal is generally consistent with the bulk and height as described in the Stage 1 DA approved envelopes with the separation distance between Building N1.1 and Building N1.2 reduced from 12m to 6m. The proposed 6m separation distance is acceptable considering the privacy measurements are introduced, including providing privacy screens and orienting bedroom windows away from each other.

Façade development has been further resolved to provide a break in scales between various portions of the buildings and to modulate the bulk against some surrounding properties. The Panel supports the changes made compared with the Pre-DA drawings. The proposed façade provides distinctive lower and upper portions and efficiently reduces the proposal's overall bulk

and scale and improves the relationship between the proposal and the buildings on Lot E1 to the east across Young Street.

The minor variations to the built form envelope proposed are acceptable to the Panel.

Principle 3: Density

No density issues raised by the proposal.

Principle 4: Sustainability

No major sustainability issues raised by the proposal. Sustainability measures incorporated into the design include on-site stormwater detention capability, provision for solar panels and vertical blades on the west façade etc. Further considerations to include as the design is developed are:

- All bathrooms on external walls should have external operable windows to reduce the need for artificial ventilation. Some bathrooms do not appear to have this feature.
- Ceiling fans for bedrooms and living areas - these should be marked on the plans.
- Outdoor clothes drying areas should be indicated.

Principle 5: Landscape

A separate landscape set has not been submitted with the drawings. An indicative landscape plan has been included with the proposal in Section 2.5, SEPP65 Design Quality principles, which indicates a rich outcome, however further information is required. The effort to retain existing trees along the Barker Street streetscape is noted.

The Panel previously requested that opportunities to provide for additional deep soil planting in the common open space be investigated. This has not been done. The documents show 14.3% deep soil area which, as in the previous submission, is comprised primarily of paved areas. The Panel notes that the locating parking on the ground level is largely the result of managing flood clearance requirements. The Panel accepts this outcome as the on grade parking is sleeved by active uses facing the streets however it becomes more critical, given this outcome, that other aspects of amenity for the common open space be maintained. See Principle 6.

Principle 6: Amenity

The proposal's amenity has been improved compared with the Pre-DA version, including:

- Privacy screens are provided and bedroom windows oriented away from each other between Building N1.1 and Building N1.2 to mitigate overlooking issues.
- The stair walls in Building N1.1 and Building 1.2 have been redesigned to reach the ground level lobbies providing continuous vertical circulation from the lobby to the common open space level and upward to residential levels.
- More straightforward residential entrances are provided to Building N 1.3 off Street ST2 which provides more legible residential lobbies.
- Roof lights are proposed for Units 2.25 and 2.26 to allow for natural ventilation.

It is noted that the residential common garden is still fully shaded at the winter solstice. The Panel feels strongly that some common open space that meets the minimum sunlight access requirements at mid-winter should be provided. This could be achieved with a roof-top communal open space on Building N1.3.

Principle 7: Safety

No major safety concerns were raised; however, there is no ramp provided to access the residential lobby in Building N1.3. The Proponent should ensure that equitable access is achieved.

Principle 8: Housing Diversity and Social Interaction

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

Principle 9: Aesthetics

The approach of breaking down the larger building massing is supported.

Distinctive base and upper levels are provided on Building N1.1, N1.2 and N1.3 by using different material and modulations. Consideration should be given to reducing the extent of white glazed brick to allow the building to 'reach' the ground. The robust arch aesthetic has a mass and monumentality that needs to sit appropriately on the site.

Different façade treatments for Buildings N1.1 and N1.2 has been introduced to distinguish Building N1.2 and strengthens its 'gateway' appearance. A better relationship between the corner Building N1.2 and Building E1.1 is now achieved. The north elevation illustrates that similar treatments between the two buildings have been developed providing a better dialogue across the precinct. The junction of the upper dark metal verticals with the brick balustrade on level 4 of the north elevation of building N1.1 needs careful detailing to ensure a single composition

Consideration should be given to redesigning the retail canopy at Building N1.3 into a lighter element more consistent with the overall scale and bulk of the building.

SUMMARY AND RECOMMENDATIONS

The Panel is supportive of the proposal however improved sunlight amenity to the communal open space, potentially on the roof of Building N1.3, needs to be incorporated.

Planning comment: The applicant provided a response details of a potential roof top communal open space on Building N1.3, however did not wish to incorporate it into the development. Council was also of the view that it would be problematic as it would create significant adverse visual and acoustic privacy impacts that could not be ameliorated without adding additional bulk to the building.

Some further modulation of building detailing regarding canopies and brick colour should be considered.

Planning Comment: A condition is included requiring submission of colours and materials.

The Proponent should clarify how barrier free access to the residential lobby of Building N1.3 is achieved.

Planning comment: Barrier free access is provided by a platform lift.

Additional landscape information is required.

Planning comment: The applicant submitted a Landscape plan with the suite of information at lodgement. The landscape plans have been the subject of review by Councils Landscape Officer who has provided appropriate conditions.

The panel supports the proposal and doesn't need to see the scheme in the future, subject to the points above being addressed.

Lot N2 comments

PANEL COMMENTS

This is a Development Application for demolition existing structures, construction of a residential and townhouse development ranging from 2 to 6 storeys comprising Building N2 with three north townhouses and three south townhouses. A Pre-Development Application (Concept Plan Review) was lodged with Council for review in June 2017 and a set of comments was issued by the Panel.

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 eight 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.

Principle 2: Scale and Built Form

The proposal is consistent with the bulk and height as the approved Stage 1 DA. The resolution of individual elements of the complex is generally good.

In response to previous Panel commentary, the Proponent investigated alternative treatments to the upper level. The Panel feels that further study is required to distinguish this level as a roof top level from the three middle levels below creating a base related to the townhouses, a middle layer and an upper layer against the sky. This could be achieved with a simpler roof form for the roof that does not mimic, as an extrusion, the level below and also allows for views through to the sky from balconies. The proposed treatment of the upper parapet is not a convincing way to distinguish this level from those below.

Planning comment: The applicant submitted four options for alternate roof design to the six storey building and the DEP supported option 2 (as indicated below) which is incorporated into a condition of consent.

"The Panel's previous comments on the façade design aims to distinguish the topmost level from the middle part. The Panel supports the two-storey base.

The Panel is not in support of the additional level proposed in the Proportion Analysis Scheme 4, and feels that Proportion Analysis Scheme 2 presents the best design outcome and is an improvement over the original lodged DA, Proportion Analysis Scheme 1. Panel supports further development of the Floating Plane option as illustrated in Proportion Analysis Scheme 2."

(DEP comments in relation to alternate roof design for six storey building in N2.)

Principle 3: Density

There are no density issues raised by the proposal.

Principle 4: Sustainability

The proposal provides a range of sustainability initiatives which address most of the comments by the Panel during the Pre-DA stage. However, operable windows are not provided in bathrooms in Units 207, 308 and 506. These should be provided. Further considerations as the design is developed include:

- Ceiling fans for bedrooms and living areas - these should be marked on the plans.
- Outdoor clothes drying areas should be indicated.

Planning comment: The scheme sustainability is considered acceptable as it is accompanied by a BASIX certificate and contains roof top hot water heating panels and photovoltaic cells. The bathroom to unit 207 is adjacent to a service duct, units 308 and 506 are adjacent to the external wall.

Principle 5: Landscape

A landscape concept plan has been provided outlining the proposed landscape features within the development, however details of the landscaping, including species selection, still need to be provided. Landscape interface details between planters and portions of the building have been provided in the architecture drawings.

The proposal provides approximately 7.6% deep soil area, which complies with the minimum ADG requirement. The Panel is aware that larger deep soil area is difficult to achieve, considering the high water table constraint and therefore accept the proposed deep soil area. The Panel also previously requested that additional soil depth be provided in the communal open space. Section BB appears to indicate this; however commentary by a qualified landscape architect needs to be provided to ensure that this is adequate.

Planning comment: The proposal is the subject of review by Councils Landscape officer who has provided suitable conditions of consent relating to soil depths.

Detailed drawings are provided showing the relationships between the ground floor units and the surrounding streets/ communal open space. The sectional study indicates that a good level of passive surveillance to the surrounding streets and the proposed communal open space is provided without sacrificing the residential amenity.

Principle 6: Amenity

In response to previous Panel commentary a more generous access way through the entry lobby off Young Street to the communal open space has been incorporated into the design allowing through views between the communal open space and Young Street.

The units on Level 2 facing south onto the extensive private terraces have not been revised. Given that the proposal overall meets SEPP65 sunlight access requirements and the Proponent's explanation regarding privacy issues and the open view towards the proposed public park on Lot E2, the Panel accepts the current layout of these units.

In response to previous Panel commentary, dedicated, covered bicycle parking space has been provided along the western boundary, which can be accessed directly from Street ST2. The Panel is supportive of this approach.

Principle 7: Safety

No major safety concerns were raised.

The entry and access points from the residential buildings to the street and public spaces are improved. More defined and legible entry points are now provided. Visual sightlines through these access ways are also improved.

Principle 8: Housing Diversity and Social Interaction

The mix of terrace-style townhouse units with more conventional apartments provides some diversity in residential offering in the precinct.

Principle 9: Aesthetics

The proposal is of a good design standard, with a clear visual and formal language. Some further variation and refinement in materiality and detail would enhance the proposal, especially in the upper level element.

Commentary on the upper level provided earlier is to be noted.

It is not clear how the perforated panels in front of solid wall surfaces will be read. The renderings indicate that this effect will be consistent with that of panels fronting balconies, but this is not convincing. Further development of this banding is needed.

SUMMARY AND RECOMMENDATIONS

The proposed building façade can be further refined. Components on the building façade are to be developed to differentiate the bottom, middle and top. This can be achieved by providing upper roof setback to distinguish the upper floor and allow for views through to the sky from these balconies.

Some improvements to the Proposal's sustainability should be incorporated by providing external operable windows on bathrooms with external walls.

Additional landscape information needs to be provided.

The panel supports the proposal and doesn't need to see the scheme in the future, subject to the points above being addressed.

9.2 Development Engineer and Landscape Development Officer

Council is in receipt of a development application (DA) seeking consent for development of Northern Precinct of 'Newmarket Site' site divided into two development lots identified as lot N1 and N2 in the Concept Plan approval (DA/88/2016). Lot N1 is sought to be developed for three shop-top housing developments containing two 8 storey buildings fronting Barker Street identified as N1.1 and N1.2 and a three storey shop top housing development identified as building N1.3 located south west of N1.1 and N1.2. Lot N2 is to the south of Lot N1, separated by a new road "ST2", is sought to be developed for 15 x two storey multi-unit housing at ground and first floor level and 4 additional storeys above a portion of the MUH portion containing 30 dwellings above.

The Proposed Development

The proposed development comprises development of the northern precinct site comprising lots N1 and N2 and includes the following:

- Demolition of the existing buildings and structures;
- Excavation, remediation and other site preparation works;
- Lot N1: Construction of three buildings (up to 8 storeys) two 8 storey buildings fronting Barker Street (N1.1 & N1.2) with ground level commercial premises (1,329sqm) and 49 carparking spaces, 74 basement car parking motorcycle and bicycle parking spaces, a total of 110 dwellings, and a 3 storey shop top housing building (N1.3) at the southern end containing 21 dwellings, landscaping and associated works. Building N 1.1 contains 52 apartments (24 x 1-bedroom apartments and 28 x 2-bedroom apartments; Building N1.2 contains 58 apartments (24 x 1-bedroom apartments, 26 x 2-bedroom apartments and 8 x 3-bedroom apartments; Building N1.3 contains 21 apartments (15 x 1-bedroom apartments and 6 x 2-bedroom apartments. GFA of residential area is 10,733sqm.
- Lot N2: is for construction of a single medium density housing and flat building between two and up to six storeys containing 15 x two storey multi-dwellings at ground and first floor level and 30 dwellings, 57 basement parking spaces, motorcycle and bicycle spaces, landscaping and associated works. GFA is 5,021sqm.
- Associated infrastructure and landscaping works.

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.

Parking Comments

Parking Requirements for the development have been assessed as per the rates specified in the development consent for DA/88/2016. Condition 41 of the development consent for DA/88/2016 sets the following rates:

Vehicle Parking

Vehicle Parking for multi-unit housing is to be provide at the following rates;

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

1 space per 40m² for commercial

The subject development generally complies with the parking provision except for the commercial rate in N1. The provision of only 12 spaces for commercial parking is provided at a rate approximately 1 in 110 to 120m². No justification for the reduced commercial / retail provision has been provided other than to say the parking spaces will be allocated to staff.

Planning Comment: The commercial coverage is generally consistent with the coverage approved in the Concept Plan approval. The parking provided for the commercial component is considered sufficient as visitor parking spaces in the same area can easily accommodate the shortfall in commercial car parking spaces. It is also noted the site is in close proximity to regular public bus services and light rail system at the High Street interchange.

Visitor parking is provided at a rate of 1 per 5 units (36 in total) however only 13 are provided within the basement levels. Twenty three (23) of the spaces are to be provided on-street and this is allowed for in Condition 41 of the development consent for DA/88/2016. A condition requiring full documentation of the visitor parking allocations (both onsite and on-street) has been included within this report.

Carpark Layout

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.

RMS / Randwick Traffic Committee Comments

The development consent for DA/88/2016 included a condition requiring the applicant to meet RMS, Randwick Traffic Committee and Council requirements for additional clearways / timed parking restrictions in Barker Street (near intersection with Avoca Street).

The development consent for DA/88/2016 included a condition requiring the applicant to meet RMS, Randwick Traffic Committee and Council requirements for additional clearways / timed parking restrictions in Avoca Street (near intersection with Barker Street).

The development consent for DA/88/2016 included a condition requiring the applicant to meet the Randwick Traffic Committee and Council requirements for construction of a pedestrian crossing in Barker Street.

Conditions of consent have been included that require all clearway and pedestrian crossing matters to be resolved prior to the issuing of an occupation certificate for this development. There will be no traffic generation associated with this development prior to the issuing of an occupation certificate.

Service Authority Comments / Undergrounding of Power Comments

All power lines within the Newmarket Green development site must be underground. There are no overhead power lines in Barker Street fronting the development site.

Tree Management Comments

Whilst not included in the Arborist assessment submitted for this application, on Council's Barker Street verge, there are a total of six Jacaranda mimosifolia (Jacaranda's), of between 4-8 metres in height, comprising three semi-mature trees in the section between the corner of Young Street and the existing café/sales suite (T89-91), then a further three more juvenile specimens between the café/sales suite and the existing Vet, towards the corner of Jane Street (T91A, B & C).

In previous negotiations between the applicant and Council, it has already been formally agreed that, even if not directly affected by external works, a strategy of replacing these trees with new, more modern species, which are more in keeping with the style and character of the Newmarket precinct and the Street Tree Masterplan that has been separately approved by Council would be undertaken, wholly at the applicant's cost.

While this may result in a loss of amenity in the immediate future, it will not be major, with the quantity of street trees in this area likely to be increased, with there are also seen to be broader, long-term

benefits in providing a consistent and uniform streetscape along this major roadway, which ultimately, is the primary aim of the Masterplan, and will also directly link with the public domain treatment that will be provided for the retail precinct immediately to the east (E1), with relevant conditions for their removal provided.

Due to the extent of footprints involved with both the N1 & N2 buildings and associated works, all vegetation in these areas will need to be removed, but as none are identified as significant in anyway, involving a Lilly Pilly hedge (T111), Cocos Palms (T161A, 161B - exempt from the DCP), and a group of Robinia pseudoacacia 'Frisia' (Robinia, T162-166), conditions allow their removal, as shown, and as recommended.

The exception to this is the group of three, closely planted Lophostemon confertus (Brush Box, T113, 114 & 115), in an east-west arrangement at the southern extent of the site, around the southwest corner of N2, fronting Middle Street, which have been categorised as 'consider for retention' in the Preliminary Arborist Report of 12/02/16.

The Arborist letter submitted with this application states that all three can be retained and incorporated into individual courtyards of the townhouses as shown, with the supplied recommendations having been transferred as conditions into this report.

9.3 Environmental Health Officer

Following consultation with Council's Environmental Health Officer the following comments are provided:

Land contamination

Council's Environmental Health Officer was consulted in relation to the potential contamination of the site. It is noted a Remediation Action Plan prepared by Douglas Partners confirms that the site can be made suitable for the proposed uses (project 71659.08) dated September 2016 was submitted with the development application which identifies that the site may be contaminated largely as a consequence of the former drycleaners located in the middle of Lot N1 and 7 eleven further westward on the corner of Barker Street and Botany Street.

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.

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 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.

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

9.4 Heritage Planner

Council's Heritage Planner has provided the following comments on the proposal:

The Site

The Newmarket site comprises the northern, southern and eastern precincts, with the eastern precinct containing the Newmarket Sale Ring, Big Stable and Newmarket House and garden. The Big Stable is also listed on the State Register. The site is partly within, and adjacent to the Struggletown heritage conservation area. There are a number of heritage items in the vicinity of the site including nos.84, 88 and 90 Middle Street, nos.11 and 15 Jane Street, and no.139 Botany Street, as well as Rainbow Street Public School.

Background

The site has been the subject of a Heritage Assessment prepared by Godden Mackay Logan Heritage Consultants and an Aboriginal Archaeology Preliminary Assessment prepared by Mary Dallas Consulting Archaeologists, in conjunction with the preparation of a Master Plan and Development Control Plan for residential and mixed use of the previous horse sales and stabling facility. The development of the Master Plan has addressed a number of heritage concerns to minimise impacts of the development on the heritage values of the site and surrounding area.

DA/88/2016 comprising a Stage 1 development application for a concept master plan for the development of the site was approved in the Land and Environment Court in April 2017. No approval was sought for demolition or construction which was to be sought by subsequent development applications. The concept master plan includes subdivision into 9 development lots, building envelopes to accommodate 65,000 m² of floor area, adaptive reuse of the Big Stable and Newmarket House, provision of basement and on street car parking, road infrastructure and public domain concept design. The concept master plan proposes 19 buildings ranging in height from 2 – 8 storeys accommodating approx.750 residential dwellings and 2,000m² of commercial floor space, an urban plaza, a 5,000m² public park, four new public streets and the extension of Jane Street, and adaptive reuse of the two heritage buildings for residential and/or commercial uses.

Proposal

The current applicant proposes demolition, site remediation, and construction works, on Lot N1 and N2 in the northern precinct of the site.

Lot N1 has a northern boundary to Barker Street, an eastern boundary to Young Street, a southern boundary to a new street, and a western boundary to Jane Street. The N1 development comprises three buildings over basement carparking and a ground level podium. The podium contains carparking and retail spaces fronting the adjacent streets, with a landscaped courtyard above, enclosed by the three buildings. Fronting Barker Street is a rectangular block comprising 7 residential levels above ground floor retail. Fronting Young Street is a C-shaped block comprising 7 residential levels above ground floor retail. Fronting the new street is a rectangular block comprising 2 residential levels above ground level retail.

Lot N2 has a northern boundary to a new street, an eastern boundary to Young Street, a southern boundary to Middle Street, and a western boundary to adjacent properties in Jane Street and Middle Street. The N2 development comprises a C-shaped building over basement carparking, enclosing a west facing courtyard. The section of the building fronting Young Street comprises 6 storeys, stepping down to 2 storeys along the northern and southern edges of the courtyard.

Submission

The application was accompanied by a brief Heritage Impact Statement prepared by OCP Architects, and an Aboriginal Archaeological Assessment for the Stage 3 area prepared by Mary Dallas Consulting Archaeologists (MDCA).

The E3 and E4 development application (DA/370/2017) was accompanied by Historical Archaeological Assessment for the entire Newmarket site prepared by GML Heritage, and an Interpretation Strategy prepared by OCP Architects and an Interpretative Plan prepared by Brandculture have also been submitted.

Aboriginal Archaeological Assessment (MDCA)

Archaeological Sensitivity mapping indicates a large area of archaeological sensitivity in the least disturbed part of the site in the south east of the development area, which may retain archaeological evidence of the Aboriginal use of the area, and require further investigation. Two areas in the northern part of the development area require post demolition monitoring. The current Assessment notes that historical archaeological investigation, as well as excavation, trenching, drilling, and geotechnical testing associated with the redevelopment of the site has exposed underlying soil profiles and confirmed the presence of sensitive Botany sands. The current Assessment notes that evidence of Aboriginal presence in the area has been found within the Newmarket Stable S.60 area and curtilage. The Assessment notes that Stage 3 (N1 and N2) area will be monitored during demolition and post demolition under the current Archaeological Heritage Impact Permit and its conditions. There will be no need to make a further application for an AHIP, or a variation to the existing AHIP. A consent condition should be included in relation to archaeological monitoring.

Heritage Impact Statement (OCP Architects)

In relation to N1, the HIS notes that setbacks to the street frontages and on the upper storeys comply with the Masterplan approval, but that separation between the two apartments is just over 7m. In relation to N2, the HIS notes that the six storey apartment building which steps down to two storey townhouses is as per the Masterplan approval, with 3m setbacks retained at the street boundaries.

In relation to lots N1 and N2, the HIS notes that the Newmarket Green Masterplan Statement of Heritage Impact stated that the Masterplan development complies with building heights and height transitions in the new masterplan, including lower heights on the western side of Young Street in the vicinity of the Struggletown Conservation Area, provision of landscaping setbacks along Young Street, and retention of trees along Middle Street. The HIS refers to a Master Plan consent condition requiring that as part of any further development in relation to the N2 apartment building, the upper four levels at its northern end must be treated with a façade composition that is lighter in its materiality, and advises that the requirements of this condition are met by the use of extensive glazing and open balconies on the upper floor levels of the six storey building. The HIS refers to a further Master Plan consent condition requiring that impacts on the Struggletown Conservation Area be reduced by the use of open balconies, tapering of building extremities and transparent glazed enclosures, and advises that these features together with the lower building heights adjacent to the Struggletown Conservation Area have assisted in achieving these aims. The HIS concludes that the Masterplan development would not have an adverse impact on the heritage values of the Newmarket site, and that the DA proposal for lots N1 and N2 is generally consistent with the approved Masterplan and is therefore assessed as being consistent with the heritage provisions of the Randwick LEP 2012 and Randwick DCP Chapter E5 2013.

Comments

The GML Heritage Assessment recommended that the design of proposed new residential blocks adjacent to retained elements of heritage significance or the main residential concentration of Struggletown to be further developed (articulation and materials) to enhance compatibility with their context. The current development application adjoins the Struggletown conservation area to the west. Block N1 is adjacent to the two storey development on the corner of Young Street and Jane Street, while Block N2 is adjacent to the rear of properties fronting Jane Street and Middle Street, including 5 heritage items. The existing stables, veterinary and residential buildings on the site are proposed for demolition under the LEP and DCP amendments which apply to the Newmarket site.

View Analysis

View analyses which were submitted with the Stage 1 development application/concept Master Plan (DA/88/2016) however indicated that the higher building envelopes along Barker Street will have considerable visibility in views to and from the Struggletown heritage conservation area. The issue of view impacts has been resolved as part of the Court approval process for DA/88/2016.

New buildings

The footprints of the new buildings on lots N1 and N2 appear to be generally consistent with the Indicative Concept Plan map contained in the Newmarket Green section of Randwick DCP 2013, while the heights of the new buildings on lots N1 and N2 appear to be generally consistent with the Indicative Building Edge Heights in Key Areas map contained in the Newmarket Green section of Randwick DCP 2013. The heights of the buildings on lots N1 and N2 appear to be generally consistent with the approved Master Plan building envelopes.

In relation to Master Plan consent condition no.9 for the N2 building requiring that the upper four levels at its northern end must be treated with a façade composition that is lighter in its materiality, it is considered that the proposed treatment will not adversely impact on heritage properties in the surrounding area. In relation to Master Plan consent condition no.12 requiring that impacts on the Struggletown Conservation Area be reduced by the use of open balconies, tapering of building extremities and transparent glazed enclosures, there are concerns that the solid and unmodulated treatment of the western elevation of the townhouses, though providing good privacy, does not articulate this elevation which faces the Struggletown HCA. A consent condition be included requiring redesign of these elevations.

Historical Archaeology

The current development application does not include a submission addressing Historical Archaeology. The Historical Archaeological Assessment prepared by GML Heritage submitted with the E3 and E4 application included an Archaeological Zoning Plan identifying Archaeological Potential for the entire Newmarket site. Areas shaded yellow require further investigation while areas shaded blue require post demolition monitoring. Lots N1 and N2 site are identified as requiring post demolition monitoring only. A consent condition should be included requiring post demolition monitoring of the site in relation to historical archaeology.

Interpretation

The current development application does not include a submission addressing Interpretation. The Interpretation Strategy for the Newmarket site which has prepared by OCP Architects guides interpretation of the broader history of the site and the sale ring in particular, especially its use over the last 140 years for horse sales. The Interpretation Strategy identifies opportunities and constraints, interpretation themes and examples of interpretative actions (including signage, multimedia, interpretation in the landscaping and archaeology and moveable collections), as well as suggested locations for interpretation.

An Interpretative Plan for the Newmarket site which has been prepared by Brandculture identifies a number of locations for interpretative installations and the type of installation proposed. Interpretative installations include a footpath paving timeline, a number of devices relating to the former Sales Ring structure, and building lobby features for the main foyers if the apartment buildings. An extremely small scale plan, apparently prepared before the detailed design on the buildings on lots N1 and N2 indicates three potential locations for building lobby features (2 for lot N1 and 1 for lot N2).

On lot N1 there are 6 apartment foyers. On lot N2 two storey townhouses generally include separate individual street access, however 2 foyers provide access to apartments at the higher levels of the building. An Interpretation Plan for Lots N1 and N2, or an updated version of the Brandculture Interpretative Plan, is now required in order to inform the detailed design of interpretative devices which must be implemented in conjunction with the current development works. An appropriate consent condition should be included that an Interpretation Plan for lots N1 and N2 be submitted to and approved by Council prior to commencement of building foyer fit out works, and that the Site Foreman be made aware of this consent condition.

Recommendations

The following conditions should be included in any consent:

- *The western elevation of the townhouses which are part of the N2 building are to be redesigned to provide improved articulation, consistent with Master Plan consent condition no.12 which requires specific articulation of outer volumes, to the reduce the impact of new works on the Struggletown Conservation Area. Amended drawings are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.*

- *The N1 and N2 area are to be subject to monitoring for Aboriginal Archaeology during demolition and post demolition, in accordance with the current Archaeological Heritage Impact Permit and its conditions.*
- *The N1 and N2 area are to be subject to post demolition monitoring in relation to historical archaeology, in accordance with an excavation permit under Section 140 of the Heritage Act, 1977.*
- *An Interpretation Plan for Lots N1 and N2, or an updated version of the Brandculture Interpretative Plan, is required in order to inform the detailed design of interpretative devices within the building foyer areas to be implemented in conjunction with the current development works. An Interpretation Plan for lots N1 and N2 is to be submitted to and approved by Council prior to commencement of building foyer fitout works, and that the Site Foreman be made aware of this consent condition.*

Conditions above are included.

9.5 Sydney Airport Corporation Limited

The following comments were provided from Sydney Airport Corporation Limited:

Application for approval pursuant to s. 183 Airports Act - Notification of decision under Reg 15A(2) of the Airports (Protection of Airspace) Reg's 1996

Proposed Activity: PROPERTY DEVELOPMENT

Location: STAGE 2, BARKER, JANE & YOUNG STREETS, RANDWICK

Proponent: RANDWICK CITY COUNCIL

Date: 19/12/2018

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 72.1 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 72.1 metres AHD.

The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, 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 (i.e. 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 80 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.*

9.6 Eastern Suburbs Local Area Command

The eastern suburbs Local Area command provided no comment. Notwithstanding, certain conditions are included in order to ensure compliance with the CPTED principles.

The proposed development shall be designed to ensure compliance with the following requirements:

Surveillance:

- Installation of a Close Circuit Television System (CCTV) which complies with Australian Standard – Closed Circuit Television System (CCTV) AS:4806.1.2.3.4. <http://www.standards.org.au> must be installed within the development to receive, hold or process data for the identification of people involved in anti-social or criminal behaviour. The system is obliged to conform with Federal and State Privacy and Surveillance Legislation. Digital or analogue technology should be used to receive, store and process data.
- The system should consist of surveillance cameras strategically location in and around the premises to provide maximum surveillance coverage of the area, particularly areas which are difficult to supervise.
- Staff need to be trained in the operation of the system.
- Lighting which complies with the Australian Standard – Lighting must be installed in and around the property to increase surveillance opportunities during the hours of darkness. Emphasis should be on installing low glare/high uniformity lighting levels over all areas.
- Lighting sources should be compatible with requirements of any surveillance system installed.
- A limited amount of internal lighting should be left on at night to enable patrolling police, security guards or passing people to monitor activities within the businesses.

Access control

- Gates must be secured with quality locks which comply with the Australian Standards, Lock Sets AS:4145 to control access.
- The main entry/egress doors to the buildings must be fitted with an access control system similar to key, code or card operated system to restrict, control the movement of people and vehicles into and throughout the complex.

- An intercom system must be installed at entry /egress points to enable visitor to communicate with businesses and residents within the complex.
- Doors to plant and equipment areas must be fitted with access control to restrict and control the movement of authorised people into and throughout these areas in order to reduce opportunities for injury to people or tampering with equipment.
- By law in NSW, windows above ground level in strata schemes must have safety device installed to reduce opportunities for people falling. Balconies on the development must be designed at a height to reduce opportunities for people scaling the railings to access other balconies and falling.

Territorial Re-enforcement

- The street numbers of buildings must be prominently displayed at the front of the properties to comply with the Local Government Act, 1993 Section 124(8). Failure to comply with any such order is an offence under Section 628 of the Act can result in penalties. Offences committed under Section 628 of the Act attract maximum penalties for individuals and corporations.
- The number of each level must be prominently displayed adjacent to the elevators and fire stairs to assist users of the property identify locations particularly during emergency situations.
- The numbers of each unit must be prominently displayed on the front doors
- The number of should be in contrasting colours to building materials and be a minimum height of 120mm.
- Landscaping shall be maintained to reduce concealment opportunities.

Space and Activity Management

- An intruder Alarm System (IAS) which complies with the Australian Standard – Systems installed within Client Premises, AS:2201 must be installed in the development to enhance the physical security and monitor activity on the development. A duress facility should be incorporated into the system however duress devices should only be used when it is safe to do so.
- Detectors must be fitted to the doors of plant room areas to detect unauthorised access to these areas.
- The light emitting diodes (LED's red lights) within detectors should be deactivated, to avoid offenders being able to test the range of the system.
- The IAS must be checked and tested on a regular basis at least monthly.
- Staff should be trained in the correct use of the system
- A fire statement shall be displayed near the entrance of the premises to comply with the Environmental Planning and Assessment Act. A copy of the Fire safety Schedule and Fire Safety Statement shall be provided to the Council and the Commissioner for Fire and Rescue NSW to comply with the Environmental Planning and Assessment Act. Failure to comply with this requirement can result in financial penalties against the property.
- An emergency plan must be developed, implemented and tested on a regular basis to ensure that the users of the development understand what is required of them particularly emergency situations.

9.7 Water NSW

The following comments were provided by Water NSW as an integrated referral (dated 20 February 2019 Ref: IDAS111628):

Integrated Development referral under s.91A of the Environmental Planning and Assessment Act 1979 for 150-162 Barker Street, 1 Jane Street & 8-20 Young Street Randwick NSW 2031

Reference is made to your request for a response in relation to the proposed development described as Lots 1,2 & 3 DP 1041725, Lot 1 DP 87614, Lot B DP 344447, Lot 1 DP 932027, Lot 1 DP 81877, Lot 4 DP 1039981, Lot 4 DP 165055 and identified as DA/887/2018.

WaterNSW has determined that the proposed development is likely to 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.

On the basis of limited information available, WaterNSW considers that the take of water may be required during construction. A water supply work approval under S92 of the water Management Act 2000, and, subject to exemptions, a water access licence may be required to account for the water take.

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.

9.8 NSW Heritage Office

The application was referred to the NSW Heritage Office for comment stating that the subject site is not within the curtilage of the State Heritage Register (SHR) item. Consequently, no specific comments are provided as no impacts to SHR items have been identified. Please note the Communities and Greater Sydney Delivery Division of the Office of Environment and Heritage may provide separate comment in relation to Aboriginal cultural heritage.

A condition is included addressing the potential for unexpected finds.

The works associated with this development shall be monitored during demolition, excavation and post demolition in the event that historical aboriginal and or archaeological remains or deposits are exposed during the works. 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.

Transport NSW

The following comments were provided:

Sydney Light Rail Project

Comment

As you are aware, the Sydney Light Rail Project was determined by the Department of Planning and Environment (DP&E) on 4 June 2014. TfNSW advises that construction is underway and will be carried out in accordance with the existing approvals and any modifications subsequently approved.

Construction Pedestrian and Traffic Management

Comment

Several construction projects, including the Sydney Light Rail Project, Prince of Wales Hospital redevelopment, University of New South Wales development and surrounding new residential developments will occur at the same time as this development within the Randwick precinct. The cumulative increase in construction vehicle movements from these projects could have the potential to impact on general traffic and bus operations within the Randwick Precinct, as well as the safety of pedestrians and cyclists particularly during commuter peak periods.

Further, TfNSW advises that the use of High Street by the development's construction vehicles must be avoided to ensure that the interface risk between construction vehicles and the Sydney Light Rail construction and operation and buses is mitigated.

Recommendation

It is requested that the applicant be conditioned to the following:

1. *Construction vehicle shall not use High Street without prior approval of the Sydney Coordination Office within TfNSW and Roads and Maritime Services.*
2. *The applicant shall minimise the number of haulage movements during the defined AM and PM peak traffic periods to minimise impacts on the road network.*
3. *The applicant shall liaise with representatives of other developments under construction within or around the development site to ensure that construction work activities are coordinated to minimise impacts on the road network from cumulative construction traffic. The applicant shall ensure that the builder's direct number is current during any stage of construction.*
4. *Approved Road Occupancy Licenses (RLO) will be required from the Transport Management Centre within Transport for NSW prior to any road or lane closures.*

10. 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 as it achieves a more streamlined bulk and scale across Barker Street with the existing development in the eastern precinct and the higher built form across the road at the Neurosciences building.

The reduced separation between buildings N1.1 and N1.2 achieves a better planning outcome as it is complemented by a greater number of apartments obtaining solar access and cross ventilation throughout the development of the Northern precinct.

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. The proposal does 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.

11. Recommendation

- A. That Sydney Eastern City Planning Panel supports the exceptions to development standards under Clause 4.6 of Randwick Local Environmental Plan 2012 in respect to non-compliance with Clause 4.3 of Randwick Local Environmental Plan 2012, relating to maximum height of buildings, on the grounds that the proposed development complies with the objectives of the above clauses, and will not adversely affect the amenity of the locality, and that the Department of Planning & Environment be advised accordingly.
- B. That the Sydney Eastern City Planning Panel, as the consent authority, grants development consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/887/2018 for Integrated Development for Stage 2 development of Lots N1 and N2 of Newmarket site, including shop-top housing on Lot N1 with 3 buildings – 2 x 8 storey buildings fronting Barker Street with commercial uses and 49 carparking spaces at ground level, 74 basement level car parking spaces, a 3 storey shop top housing building at the southern end, landscaping and associated works. Lot N1 contains a total of 131 dwellings. Lot N2 is developed with a part two part 6 storey building containing 15 x two storey multi-dwellings at ground and first floor level, 30 dwellings above and 57 basement parking spaces, landscaping and associated works, at 150-162 Barker Street, 1 Jane Street, 8-20 Young Street, Randwick 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

- 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 number	Drawn by	Dated
N1.00.000 Rev 8	SJB	
N1.01.001 Rev 7		20.11.2018
N1.02.002 Rev 17		20.11.2018
N1.02.003 Rev 20		20.11.2018
N1.02.004 Rev 19		20.11.2018
N1.02.005 Rev 18		20.11.2018
N1.02.006 Rev 18		20.11.2018
N1.02.007 Rev 18		20.11.2018
N1.02.008 Rev 16		20.11.2018
N1.02.009 Rev 16		20.11.2018
N1.02.010 Rev 18		20.11.2018
N1.02.011 Rev 17		20.11.2018
N1.05.012 Rev 10		20.11.2018
N1.05.013 Rev 10		20.11.2018
N1.06.001 Rev 9		20.11.2018
N1.07.001 Rev 12		20.11.2018
N1.07.002 Rev 12		20.11.2018
N1.07.003 Rev 5		20.11.2018
N1.08.001 Rev 13		20.11.2018
N1.08.002 Rev 13		20.11.2018
DA.N2.00.001[B]	BATESSMART	20.11.2018
DA.N2.01.001[B]		11/10/2017
DA.N202.001[D]		11/10/2017
DA.N202.100[D]		21/11/2018
DA.N202.101[C]		21/11/2018
DA.N202.102[C]		21/11/2018
DA.N202.103[B]		21/11/2018
DA.N202.104[B]		21/11/2018
DA.N202.106[B]		21/11/2018
DA.N207.001[D]		21/11/2018
DA.N207.002[B]		11/10/2017
DA.N207.003[A]		11/10/2017
DA.N207.004[A]		11/10/2017
DA.N208.001[C]		21/11/2018
DA.N208.002[B]		21/11/2018
DA.N208.003[B]		21/11/2018
DA.N208.004[C]		21/11/2018
BASIX certificate No. 774878M_03		8 November 2018
BASIX certificate No. 776019M_03		7 November 2018
BASIX certificate No. 776029M_03		7 November 2018

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. The roof of the six storey building on Lot N2 shall be amended to be consistent with Option 2 as shown on the roof option study in the proportion analysis section dated 12 March 2019 and prepared by BATESSMART. Details shall be submitted to and approved by the Manager Development Assessment prior to a Construction Certificate being issued for the development.
 - b. Privacy screen/s constructed with lattice/slats must have individual openings not more than 30mm wide; Alternatively, screens may be design with fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of adjacent dwellings and open spaces.

Aboriginal Objects

3. Should any Aboriginal 'objects' be uncovered by the work, excavation or disturbance of the area is to stop immediately and the Council 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 Council has been informed. Aboriginal 'objects' must be managed in accordance with the National Parks and Wildlife Act, 1974. If requested, the Applicant and a nominated Heritage Consultant may be required to participate in audits of approvals to confirm compliance with conditions of consent.

Randwick Council Heritage conditions

4. The conditions of consent within the Excavation Permit issued by the Department of Environment and Heritage are to be complied with.
 - a. The western elevation of the townhouses which are part of the N2 building are to be redesigned to provide improved articulation, consistent with Master Plan consent condition no.12 which requires specific articulation of outer volumes, to the reduce the impact of new works on the Struggletown Conservation Area. Amended drawings are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.
 - b. The N1 and N2 area are to be subject to monitoring for Aboriginal Archaeology during demolition and post demolition, in accordance with the current Archaeological Heritage Impact Permit and its conditions.
 - c. The N1 and N2 area are to be subject to post demolition monitoring in relation to historical archaeology, in accordance with an excavation permit under Section 140 of the Heritage Act, 1977.
 - d. An Interpretation Plan for Lots N1 and N2, or an updated version of the Brandculture Interpretative Plan, is required in order to inform the detailed design of interpretative devices within the building foyer areas to be implemented in conjunction with the current development works. An Interpretation Plan for lots N1 and N2 is to be submitted to and approved by Council prior to commencement of building foyer fitout works, and that the Site Foreman be made aware of this consent condition.

Water NSW General Terms of Approval

5. 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.
6. 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.

7. 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.
 8. WaterNSW prefers “tanking” (i.e. 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 (e.g. a drainage blanket behind the water-proof membrane).
 9. 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.
- Transport for NSW (TfNSW)**
10. Construction vehicle shall not use High Street without prior approval of the Sydney Coordination Office within TfNSW and Roads and Maritime Services.
 11. The applicant shall minimise the number of haulage movements during the defined AM and PM peak traffic periods to minimise impacts on the road network.
 12. The applicant shall liaise with representatives of other developments under construction within or around the development site to ensure that construction work activities are coordinated to minimise impacts on the road network from cumulative construction traffic. The applicant shall ensure that the builder’s direct number is current during any stage of construction.
 13. Approved Road Occupancy Licenses (RLO) will be required from the Transport Management Centre within Transport for NSW prior to any road or lane closures.

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

14. The requirements and amendments detailed in the ‘General Conditions’ must be complied with and be included in the construction certificate plans and associated documentation.
15. 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

16. In accordance with Council’s Section 94A Development Contributions Plan effective from 21 April 2015, based on the development cost of \$93,724,681 the following applicable monetary levy must be paid to Council: \$937,246.81.

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

17. A development compliance and enforcement fee of \$5,000 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

18. 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

19. 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*:

- \$10000.00 - 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

20. 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

21. 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.

22. 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.

23. 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

24. 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

25. 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 RL72.1 metres above AHD, as denoted in the Sydney Airport Corporation Limited letter to Council dated 20 December 2018 (SACL Reg No.: 18/0997). 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.

Roads and Maritime Services conditions

26. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004, AS2890.6-2009 and AS 2890.2 – 2002 for heavy vehicle usage. Parking Restrictions may be required to maintain the required sight distances at the driveway.
27. Any new regulatory signage associated with the development (e.g. "No Stopping" or "No Parking") will need to be referred to the Local Traffic Committee for approval.
28. Any signage to be implemented shall be at no cost to Roads and Maritime.
29. Pedestrian safety is to be considered in the vicinity of the subject site given that the proposed development will generate additional pedestrian movements in the area.
30. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the work associated with the development and as required by the various public utility authorities and/or their agents.
31. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate

Crime prevention design

32. The following crime prevent measures shall be included the Construction Certificate details issued for the development:

Surveillance:

- Installation of a Close Circuit Television System (CCTV) which complies with Australian Standard – Closed Circuit Television System (CCTV) AS:4806.1.2.3.4. <http://www.standards.org.au> must be installed within the development to receive, hold or process data for the identification of people involved in anti-social or criminal behaviour. The system is obliged to conform with Federal and State Privacy and Surveillance Legislation. Digital or analogue technology should be used to receive, store and process data.
- The system should consist of surveillance cameras strategically location in and around the premises to provide maximum surveillance coverage of the area, particularly areas which are difficult to supervise.
- Staff need to be trained in the operation of the system.
- Lighting which complies with the Australian Standard – Lighting must be installed in and around the property to increase surveillance opportunities during the hours of darkness. Emphasis should e on installing low glare/high uniformity lighting levels over all areas.
- Lighting sources should be compatible with requirements of any surveillance system installed.
- A limited amount of internal lighting should be left on at night to enable patrolling police, security guards or passing people to monitor activities within the businesses.

Access control

- Gates must be secured with quality clocks which comply with the Australian Standards, Lock Sets AS:4145 to control access.
- The main entry/egress doors to the buildings must be fitted with an access control system similar to key, code or card operated system to restrict, control the movement of people and vehicles into and throughout the complex.
- An intercom system must be installed at entry /egress points to enable visitor to communicate with businesses and residents within the complex.
- Doors to plant and equipment areas must be fitted with access control to restrict and control the movement of authorised people into and throughout these areas in order to reduce opportunities for injury to people or tampering with equipment.

- By law in NSW, windows above ground level in strata schemes must have safety device installed to reduce opportunities for people falling. Balconies on the development must be designed at a height to reduce opportunities for people scaling the railings to access other balconies and falling.

Territorial Re-enforcement

- The street numbers of buildings must be prominently displayed at the front of the properties to comply with the Local Government Act, 1993 Section 124(8). Failure to comply with any such order is an offence under Section 628 of the Act can result in penalties. Offences committed under Section 628 of the Act attract maximum penalties for individuals and corporations.
- The number of each level must be prominently displayed adjacent to the elevators and fire stairs to assist users of the property identify locations particularly during emergency situations.
- The numbers of each unit must be prominently displayed on the front doors
- The number of should be in contrasting colours to building materials and be a minimum height of 120mm.
- Landscaping shall be maintained to reduce concealment opportunities.

Space and Activity Management

- An intruder Alarm System (IAS) which complies with the Australian Standard – Systems installed within Client Premises, AS:2201 must be installed in the development to enhance the physical security and monitor activity on the development. A duress facility should be incorporated into the system however duress devices should only be used when it is safe to do so.
- Detectors must be fitted to the doors of plant room areas to detect unauthorised access to these areas.
- The light emitting diodes (LED's red lights) within detectors should be deactivated, to avoid offenders being able to test the range of the system.
- The IAS must be checked and tested on a regular basis at least monthly.
- Staff should be trained in the correct use of the system
- A fire statement shall be displayed near the entrance of the premises to comply with the Environmental Planning and Assessment Act. A copy of the Fire safety Schedule and Fire Safety Statement shall be provided to the Council and the Commissioner for Fire and Rescue NSW to comply with the Environmental Planning and Assessment Act. Failure to comply with this requirement can result in financial penalties against the property.
- An emergency plan must be developed, implemented and tested on a regular basis to ensure that the users of the development understand what is required of them particularly emergency situations.

Street Tree Removal

33. The applicant must submit a payment of **\$3,355.18** (incl GST) to cover the following costs:

- a. For Council to remove the row of six *Jacaranda mimosifolia* (Jacaranda's) from the Barker Street nature strip, comprising three in the section between the corner of Young Street and the existing café/sales suite (T89-91), then a further three more between the café/sales suite and the existing Vet, towards the corner of Jane Street (T91A, B & C), both to allow for the external public domain works that will be undertaken in this area, as well as to facilitate the planting of new trees along the length of this streetscape, as part of the approved Street Tree Masterplan.

This fee must be paid into **Tree Amenity Income** at the Cashier on the Ground Floor of the Administrative Centre **prior to a Construction Certificate being issued for the development.**

The applicant must contact Council's Landscape Development Officer on 9093-6613 (quoting the receipt number), and giving at least four working weeks-notice (allow longer for public holidays or extended periods of rain) to arrange for removal of the trees prior to the commencement of site works.

After this, any further enquiries regarding scheduling/timing or completion of tree works are to be directed to Council's North Area Tree Preservation & Maintenance Coordinator on 9093-6858.

Tree Protection Measures

34. Prior to commencement, the Certifying Authority/PCA must ensure that an AQF Level 5 Arborist (who is eligible for membership with a nationally recognized organization/association) has been engaged as *'the Project Arborist'* for the duration of works, and will be responsible for both implementing and monitoring the conditions of development consent, the Tree Protection Plan and any other instructions issued on-site.
35. A detailed, site specific Tree Protection Plan and Specification, as well as a separate Pruning Specification, relating to the preservation of Trees 113-115 (as taken from the Preliminary Arboricultural Report by Tree IQ, rev A, dated 12/02/16, and the Covering Arborists Letter by Tree IQ, dated 30/10/18; *"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, the Certifying Authority/PCA.
36. The Tree Protection Plan & Specification must detail the measures that will be employed both on the plans and on-site to ensure the retention of T113-115, and must provide recommendations and mitigation measures for the following specific components, which must be implemented as part of the works:
 - a) The extent of the Basement Level must be consistent with dwg, DA.N202.001(D), with the Project Arborist to provide written confirmation that each of their TPZ's will sustain only a minor encroachment of less than 10%;
 - b) Any root pruning required for the southern wall of the basement level must be undertaken prior to the installation of this wall, only by the Project Arborist, in order to avoid excessive damage of roots by machinery and similar;
 - c) The Project Arborist must also provide written confirmation that existing garden levels will be maintained, and that the finished ground floor level of the townhouses will be 150-200mm higher than existing levels, so as to prevent the need for excavations in this area;
 - d) Where any new walls, stairs, bins/storage areas, footpaths or the basement entry ramp intersect any of their TPZ's, they must be supported on localised pier footings, so that all other parts of these structures are held above existing ground levels, with construction details confirming this to be submitted to, and be approved by, the Project Arborist, prior to commencement;
 - e) Flexible footing systems must be used for those items described in point 'd' above, so as to enable the preservation of any roots encountered with a diameter of 25mm or more, with notations confirming such to be included on the Construction Certificate plans;
 - f) Any new boundary fencing must provide a minimum clearance of 300mm from their trunks to allow for future growth, and where required by the Project Arborist, sections of this wall/fence shall be either, thinned and replaced with fibre cement sheeting; or; completely deleted and a more sympathetic solution provided in their place;
 - g) Excavations associated with the installation of new services, hydraulic/stormwater systems and similar within their TPZ's must be avoided, but if no other option exists, the Project Arborist must ensure that tree sensitive methods and machinery are used, as detailed in the covering letter of 30/10/18.
37. A separate Pruning Specification must also clearly nominate the likely extent of pruning required to each tree, and is 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 each of their crown volumes, as confirmed in the Arborists Covering Letter dated 10/10/18.

38. Works on-site must be performed in accordance with the approved Tree Protection Plan and Specification and Pruning Specification, to Council's satisfaction, and only by the Project Arborist; or; under their direct supervision.

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

39. 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).
40. 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

41. 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

42. 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

43. 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.

44. 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

45. 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.

Waste Management

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

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

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

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

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

Traffic conditions

48. 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.

49. The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of AS2890.1:2004. The entry / exit driveways and all internal ramps must be suitably designed for two way traffic movements. The Construction Certificate

plans must demonstrate compliance with these requirements and certification of the design must be provided by a suitably qualified traffic engineer.

50. Prior to the issuing of a Construction Certificate the applicant must submit to Council for approval, and have approved, details of both the onsite and on-street visitor parking for the proposed development. The on-street parking provision is to total 23 spaces and the onsite parking provision is to total 13 spaces.

The details must be prepared in consultation with Council's Development Engineer.

Splay Corners

51. The Construction Certificate plans must show a minimum 2.5 metre by 2.5 metre splay corner at the intersection of Barker Street and Young Street. The splay corner must be dedicated as public road, at no cost to Council, prior to the issuing of an Occupation Certificate.
52. The Construction Certificate plans must show minimum 2.5 metre by 2.5 metre splay corners at the intersection of Young Street and proposed road ST2. The splay corner must be dedicated as public road, at no cost to Council, prior to the issuing of an Occupation Certificate.
53. The Construction Certificate plans must show a minimum 2.5 metre by 2.5 metre splay corner at the intersection of Young Street and Middle Street. The splay corner must be dedicated as public road, at no cost to Council, prior to the issuing of an Occupation Certificate.

Design Alignment levels

54. The design alignment level (the finished level of concrete, paving or the like) at the Barker Street property boundary for driveways, access ramps and pathways or the like, shall be 2.5% above the top of kerb in Barker Street at all points opposite.

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

Any enquiries regarding this matter should be directed to Council's Development Engineer on 9093-6881/9093-6923.

55. The design alignment level (the finished level of concrete, paving or the like) at the Young Street property boundary for driveways, access ramps and pathways or the like, shall be 2.5% above the top of kerb in Young Street at all points opposite.

Note: the top of kerb in Young Street referenced will be the top of 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/kerb/footpath must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.

Any enquiries regarding this matter should be directed to Council's Development Engineer on 9093-6881/9093-6923.

56. The design alignment level (the finished level of concrete, paving or the like) at the proposed road ST2 property boundaries for driveways, access ramps and pathways or the like, must be shall be 2.5% above the top of kerb in proposed road ST2 at all points opposite.

Note: the top of kerb in ST2 referenced will be the top of 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/kerb/footpath must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.

Any enquiries regarding this matter should be directed to Council's Development Engineer on 9093-6881/9093-6923.

57. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of \$4760.00 calculated at \$57.00 (inclusive of GST) per metre of site frontage to Barker Street. This amount is to be paid prior to a construction certificate being issued for the development.
58. The gradient of the internal access driveway must be designed and constructed in accordance with AS 2890.1 (2004) – Off Street Car Parking and the levels of the driveway must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate.

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

Street Awnings

59. Plans submitted for the construction certificate shall demonstrate the proposed awnings complying with the following council requirements;
 - a) The minimum clear distance from the footpaths in Barker Street, Young Street, proposed road ST2 and Middle Street to the underside of any proposed awning shall be 3.00 metres.
 - b) All new awnings shall be set back a minimum of 600mm from the face of kerb.

Stormwater Drainage & Flood Management

60. 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 Barker Street, Young Street, Middle Street and ST2 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 ramp which must have a high point at or above the critical 1%AEP flood level. The certification must also cover the protection of the commercial / residential areas. The applicant's hydraulic consultant must certify that the commercial residential floor areas are above the critical 1%AEP levels and are consistent with the development consent for DA/88/2016.

61. The proposed internal driveways for the proposed developments shall be designed with a high point at least 300 mm above determined 1%AEP flood level. Details demonstrating compliance with this condition are to be included in the construction certificate documentation.
62. Windows, vents and other openings into the basement carpark/s (excluding the driveway opening) are to be located at least 300 mm above the determined 1%AEP flood level. Details demonstrating compliance with this condition are to be included in the construction certificate documentation.
63. The ground floor level located along the three 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.

64. Stormwater drainage plans have not been approved as part of this development consent. Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage shall be prepared by a suitably qualified Hydraulic Engineer and submitted to and approved by the certifying authority prior to a construction certificate being issued for the development. A copy of the engineering calculations and plans are to be forwarded to Council, prior to a construction certificate being issued, if the Council is not the certifying authority. The drawings and details shall include the following information:

- a) A detailed drainage design supported by a catchment area plan, at a scale of 1:100 or as considered acceptable to the Council or an accredited certifier, and drainage calculations prepared in accordance with the Institution of Engineers publication, Australian Rainfall and Run-off, 1987 edition.
- b) A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connection into Council's stormwater system.
- c) The separate catchment areas within the site, draining to each collection point or surface pit are to be classified into the following categories:
 - i. Roof areas
 - ii. Paved areas
 - iii. Grassed areas
 - iv. Garden areas
- e) Where buildings abut higher buildings and their roofs are "flushed in" to the higher wall, the area contributing must be taken as: the projected roof area of the lower building, plus one half of the area of the vertical wall abutting, for the purpose of determining the discharge from the lower roof.
- f) Proposed finished surface levels and grades of car parks, internal driveways and access aisles which are to be related to Council's design alignment levels.
- g) The details of any special features that will affect the drainage design eg. the nature of the soil in the site and/or the presence of rock etc.

Internal Drainage

65. 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 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;
- i. There are suitable clear-outs/inspection points at pipe bends and junctions.
 - ii. The maximum depth of the charged line does not exceed 1m below the gutter outlet.
- 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:

- The base of the pit being located a minimum 300mm under the invert level of the outlet pipe.
- The pit being constructed from cast in-situ concrete, precast concrete or double brick.

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

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

- 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):
- 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)
 - 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10
 - 1200mm in landscaped areas where a safety fence is provided around the outside of the detention area
 - 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

66. As the proposed basement level/s may extend into the water table (or be affected by fluctuations of the water table or by seepage flows), 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.

- 67. 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

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

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

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

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

69. The residential and commercial garbage areas must be sized to accommodate the number of bins, (and any compactor units) proposed in the approved waste management plan.

70. The commercial garbage area must be separated from the residential bin storage areas. 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

71. Written certification from a qualified professional in the Landscape/Horticultural industry (must be eligible for membership with a nationally recognised organisation/association) must state that the Landscape Plans submitted for the Construction Certificate are substantially consistent with the Landscape Plans and Images by Arcadia, pages 1-22, as well as dwg's 001-501, all rev E, dated Nov 18, with both this statement and plans to be submitted to, and be approved by, the PCA/Certifying Authority.

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.

72. 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.
73. 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.
74. 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.

75. 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

76. 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

77. 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

78. 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

79. 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.
- prior to demolition works being commenced notification of the adjoining School and neighbouring residents shall be undertaken to advise of time frames that these works are to be carried out.

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

80. 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

81. 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

82. 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

83. An application for 'Works Zones' and Construction Traffic Management Plan must be submitted to Councils Integrated Transport Department, and approved by the Randwick Traffic Committee, for 'Works Zones' to be provided in Barker Street and/or Young Street and/or ST2 and/or Middle Street for the duration of the demolition & construction works.

The 'Works Zones' 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 Works Zones 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.

84. 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.

85. 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

86. 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

87. 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.
88. 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.

Public Domain

89. The applicant must meet all costs associated with upgrading the Barker Street frontage with feature paving, for the full width and length of this site, to Council's requirements and specifications for Civil Works on public property, so as to provide a treatment that is consistent with what has been provided for E1, to the east of this site.

Detailed, site specific streetscape plans for this frontage showing **proposed paving design, street furniture, signage, awnings, grades, finished levels, existing and proposed street trees, tree squares, vehicle and pedestrian entrances** as well as any other details required by Council's Landscape Architect must be submitted to, and be approved by, Council's Director of City Services, prior to commencement of any external works.

In this regard, the applicant will need to liaise with Council's Landscape Architect on 9093-6543, prior to preparation of the streetscape plan to obtain any of Council's specific design requirements.

Following approval of the streetscape plan; and prior to commencement of the streetscape works on Council property, the applicant must then liaise with Council's Capital Works Engineer on 9093-6931, regarding scheduling of work including inspections, supervision fees and compliance with Council's requirements for public liability insurance.

The approved streetscape works must be completed to the satisfaction of Council's Landscape Architect and Capital Works Engineer, with confirmation of approval to be provided in writing, prior to 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.

90. 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.

91. 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)

92. 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.
93. 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.

94. 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.

95. Remediation work shall be conducted within the following hours:

Monday – Friday 7am – 5pm

Saturday 8am – 5pm

No work permitted on Sundays or Public Holidays

96. 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.
97. 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.

98. 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.

99. 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

100. 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

101. 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

102. 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

103. 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

104. 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

105. 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

106. 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

107. 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 is 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

108. 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

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

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

Restriction on Working Hours

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

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

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

Survey Requirements

111. 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

112. 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

113. 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

114. 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

115. 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

116. 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.
117. 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.
118. All conditions and requirements of the NSW Police, Roads & Maritime Services, Transport and Council must be complied with at all times.

Stormwater Drainage

119. 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.

120. 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.

121. 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.

Street Awning

122. Upon completion of the construction of the proposed awnings, certification of the structural adequacy of the awnings must be provided to the Council.

Pruning

123. Approval is granted for the minor and selective pruning of only those branches from T113-115, which are located along the southern site boundary, in the southwest corner of N2, only in accordance with the approved Pruning Specification.
124. This pruning may be performed prior to the commencement of site works so as to minimize the chance of damage being caused to the trees by machinery and similar during demolition activities.
125. Pruning can only be performed by the Project Arborist, or, they must directly supervise a AQF Level III Practicing Arborist, 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).

Tree Removal

126. Approval is granted for removal of the following trees, subject to full implementation of the approved Landscape Plans:

- a. The Lilly Pilly hedge (T111), Cocos Palms (T161A, 161B - exempt from the DCP), and a group of *Robinia pseudoacacia* 'Frisia' (Robinia, T162-166), given a combination of their low landscape value, as well as being in direct conflict with all works associated with both N1 & N2.

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

127. 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

128. 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

129. 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

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

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

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

BASIX Requirements & Certification

131. 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

132. 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.

133. 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

134. The owner/developer must meet the full cost for a Council approved contractor to:
- a) Construct a full width concrete heavy duty vehicular crossing and layback at kerb opposite the vehicular entrance to the premises (N1) in ST2 to Council's specifications and requirements.
 - b) Construct a full width concrete heavy duty vehicular crossing and layback at kerb opposite the vehicular entrance to the premises (N2) in Middle Street to Council's specifications and requirements.
 - c) Remove all existing footpaths along the Barker Street, Young Street and Middle Street site frontages and to reconstruct them to Council's specification.
 - d) Reconstruct Barker Street and Young Street along the full Barker and Young Street site frontages to Council's specification and in accordance with the development consents for DA/88/2016 and DA/662/2016.
 - e) Construct proposed road ST2 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.
 - f) Reconstruct Middle Street along the full Middle Street site frontages to Council's specification and in accordance with the development consents for DA/88/2016 and DA/662/2016.
 - g) Install any traffic management treatments and/or signage in the streets fronting and surrounding the development site to Council's specification.
135. 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.
136. 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

137. 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***, whichever the sooner.

Undergrounding of Power

138. All telecommunication cables and power cables located in Barker Street, Young Street, Middle Street and ST2 (and fronting the development site) 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

139. 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 properties to ensure that the onsite detention/infiltration system is maintained and that no works which could affect the design function of the detention/infiltration system are undertaken without the prior consent (in writing) from Council. Such restriction and positive covenant shall not be released, varied or modified without the consent of the Council.

Notes:

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

140. 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).
141. 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.

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

Waste Management

143. Prior to the occupation of the development, the owner or applicant is required to contact Council's City Services department, to make the necessary arrangements for the provision of waste services for the premises.
144. The waste storage areas shall be clearly signposted.
145. Prior to the issuing of an Occupation Certificate the applicant must have met the Roads and Maritime Services' terms and conditions for additional clearways / timed parking restrictions in Avoca Street (near the intersection with Barker Street).
146. Prior to the issuing of an Occupation Certificate for any Stage 2 development the applicant must have met the Randwick Traffic Committee's terms and conditions for additional clearways / timed parking restrictions in Barker Street (near the intersection with Avoca Street).
147. Prior to the issuing of an Occupation Certificate for any Stage 2 development the applicant must have met the Council's and the Randwick Traffic Committee's terms and conditions for a pedestrian crossing in Barker Street (near the intersection of Barker and Young Street).

Landscaping

148. Prior to issuing any type of Final Occupation Certificate, certification from a qualified professional in the landscape/horticultural industry must be submitted to, and be approved by, the PCA, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Landscape Plans and Images by Arcadia, pages 1-22, as well as dwg's 001-501, all rev E, dated Nov 18, as well as any relevant conditions of consent.
149. 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

150. Prior to the issue of any Occupation Certificate, the Project Arborist must submit to, and have approved by, the PCA, written certification (Final Compliance Report) which confirms compliance with the conditions of consent and Arborists Report Recommendations; the dates of attendance and works performed/supervised relating to retention of T113-115.

Operational Requirements

151. 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

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

Residential Parking Permits

153. 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.

154. 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

155. 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.

156. 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

157. 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.
158. 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.
159. 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 and 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.