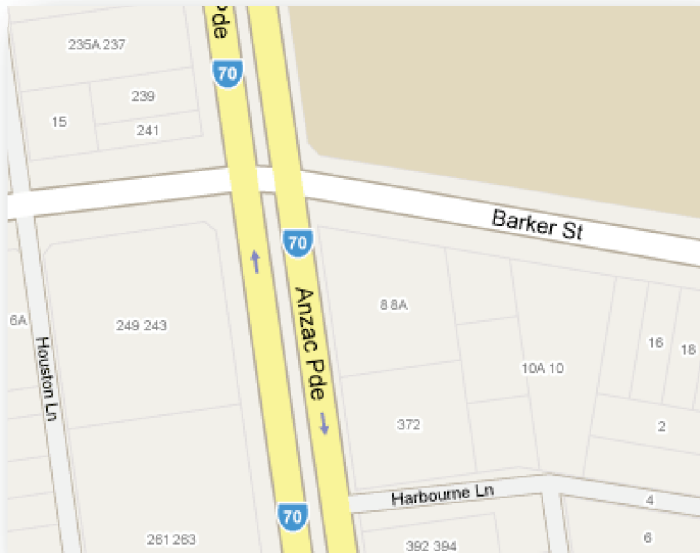


1. A “McDonalds” on Baker Street opposite UNSW, near the south-eastern intersection with Anzac Parade. Note: This involves four adjoining blocks of land split between two different land use zones.

---

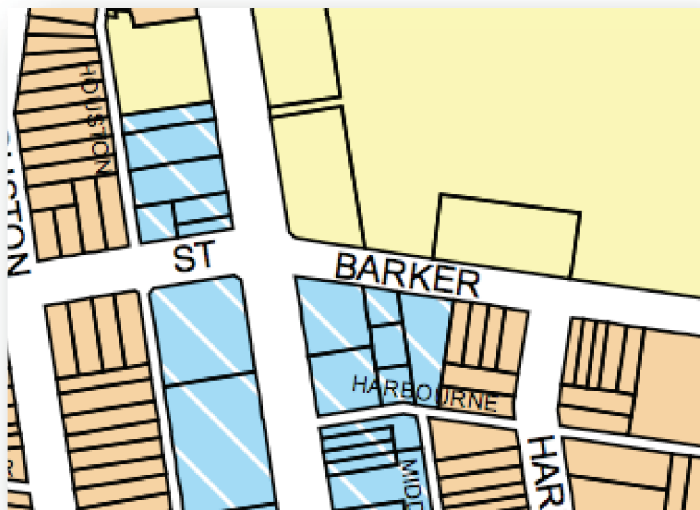
**1. Identifying the location:**

Baker Street opposite UNSW, near the south-eastern intersection with Anzac Parade



**2. Zoning and other relevant provisions**

Under the Randwick Zoning Map, the zoning is defined as follows:



Under the Randwick LEP 1998, a “McDonalds” involves four adjoining blocks of land split between 2 different land use zones which are Residential B (2B) and General Business (3A) zones

**11 Zone No 2B (Residential B Zone)**

(4) Any development not included in subclause (2) or (3) is prohibited.

**13 Zone No 3A (General Business Zone)**

(3) Any development not included in subclause (2) or (4) requires development consent.

The height limit in the 2B Residential Zone and 3A General Business Zone are:

**33 Building heights**

(1) The maximum height for a building, other than a dwelling house, within Zone No 2A or 2B is 9.5 metres measured vertically from any point on ground level.

(3) The maximum height for any external wall of a building, other than a dwelling house, within Zone No 2A or 2B is 7 metres measured vertically from any point on ground level.

In 3A General Business zone, the maximum FSR is 3:1 and maximum building height is 24 metres.

**3. Define the proposed land use**

The proposed land use of a McDonalds is a restaurant which means a building or place used for the provision of food or drink (or both), whether or not for consumption on the premises or for takeaway.

**4. Determine permissibility:**

From section 3 and 4 we can summarize the following:

	<b>Proposed</b>	<b>Residential 2B</b>	<b>General Business 3A</b>
<b>Land use</b>	Restaurant	Restaurant is not included in subclause (2) or (3) is prohibited	Restaurants permissible with consent

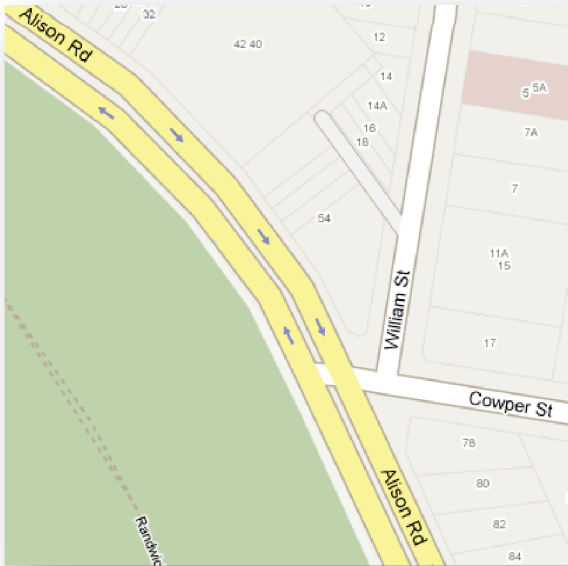
From the table above we can determine that the proposed development is not permissible. Although, it is permissible in the General Business 3A zone, it is not included in subclause (2) or (3) in the residential 2B zone. Thus, under normal circumstances, a “McDonalds” is not permissible.

2. A sports medicine and physiotherapy centre, located on Alison Road, on the eastern side of its intersection with William Street, Randwick.

---

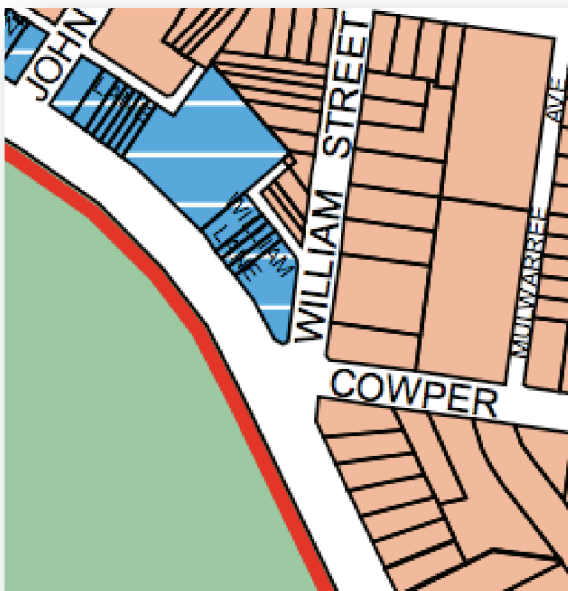
**1. Identifying the location:**

Located on Alison Road, on the eastern side of its intersection with William Street, Randwick.



**2. Zoning and other relevant provisions**

Under the Randwick Zoning Map, the zoning is defined as follows:



As shown in the map above the proposed development is located within the Residential 2C Zone, and under the 1998 Randwick LEP:

## 12 Zone No 2C (Residential C Zone)

(3) Development for the purpose of the following requires development consent:

*Health consulting rooms;*

The height limit in the 2C Residential Zone is:

### 33 Building heights

(2) The maximum height for a building, other than a dwelling house, within Zone No 2C is 12 metres measured vertically from any point on ground level.

### 3. Define the proposed land use

The proposed land use can be apply as a Health consulting rooms which means a room or a number of rooms forming either the whole or part of, attached to, or within the curtilage of, a dwelling house used by not more than 3 practitioners providing health care services (including dental and optical services) to members of the public.

### 4. Determine permissibility:

From section 3 and 4 we can summarize the following:

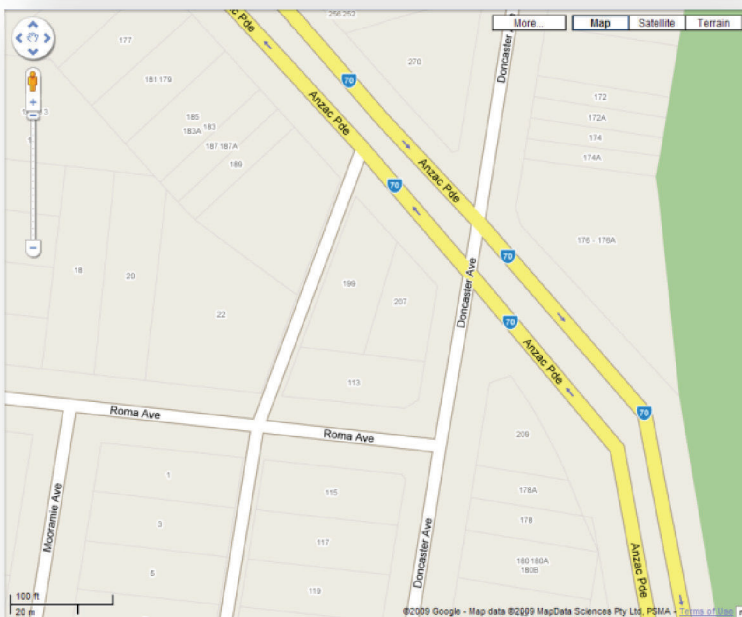
	<b>Proposed</b>	<b>Residential 2C</b>
<b>Land use</b>	Health consulting rooms	Health consulting rooms permissible with consent

From the table above we can determine that the proposed development is permissible with council consent as it conforms to the land use defined in the Randwick LEP.

5. Amalgamation of the three lots on the western intersection of Anzac Pde, Doncaster Ave and Roma Ave, Kensington, for the construction of a building to be used for the purposes of (commercial) live theatre. Does the permissibility change if the proposal is (a) built and operated by Council; (b) built and operated by UNSW as part of NIDA.

### 1. Identifying the location:

Western intersection of Anzac Parade, Doncaster Avenue and Roma Avenue, Kensington



## 2. Zoning and other relevant provisions:

- Under the Randwick LEP 1998, the three lots are defined as follows:



2C

RESIDENTIAL C



Town Centre Boundary

- As shown above, the proposed development is located in the Residential 2C zone and partly within the Kensington Town Centre. Under the Randwick LEP 1998, a commercial live theatre is permissible in the Residential 2C zone with development consent:

### 12 Zone No 2C (Residential C Zone)

3) Development for the purpose of the following requires development consent:

*Recreation facilities;*

- In addition, two of the three lots fall within the Kensington Town Centre. A commercial live theatre is permissible in this area with development consent. Note the following provisions:

### 42C Kensington Town Centre

2) The Council must not grant consent to the carrying out of development on land within the Kensington Town Centre unless it is satisfied that the proposed development is consistent with the following objectives for the Kensington Town Centre:

*(e) to encourage the amalgamation of land to facilitate redevelopment within the town centre;*

*(f) to facilitate development within the town centre that supports the regional entertainment industry;*

- The north-western lot is a Heritage item. Alterations to the exterior of a Heritage item, or its' demolition, are only permissible with development consent, and only after Council has considered a Heritage impact report.

### **Schedule 3 Heritage items**

*199-201 Anzac Parade, Kensington Masonic Temple, c 1930 Inventory no. 25.*

#### **43 Protection of heritage items, heritage conservation areas and relics**

1) *The following development may be only carried out with the consent of the Council:*

- (a) Demolishing, defacing, damaging or moving a heritage item;*
- (b) Altering a heritage item by making structural changes to its exterior*
- (c) Altering a Heritage item by making non-structural changes to the detail, fabric, finish or appearance of its exterior;*
- (d) Erecting a building on, or subdividing, land on which a heritage item is located.*

2) *The Council must take into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item.*

3) *The Council may grant consent to a development application required by this clause only after it has considered a report that assesses the impact of the proposal on the heritage significance of the heritage item and its setting.*

- Development on the two lots of the proposal that are adjacent to the Heritage item is also subject to consideration by Council of the impact on the heritage significance of the Heritage item:

#### **46 Development in the vicinity of heritage items, heritage conservation areas and known or potential archaeological sites**

*When determining an application for consent to carry out development on land in the vicinity of a heritage item, a heritage conservation area or a known or potential archaeological site, the Council must take into consideration the likely effect of the proposed development on the heritage significance of the heritage item, heritage conservation area or known or potential archaeological site and on its setting.*

### **3. Define the proposed land use**

The proposed land use is development of a recreation facility in a Residential 2C zone, partly within the Kensington Town Centre and partly on land that contains a Heritage item.

### **4. Determine permissibility**

According to the provisions of the Randwick LEP 1998, the proposed development is permissible only with consent from Council, pending assessment of the proposal in relation to the provisions of 12 Zone no 2C (Residential C Zone), 42C Kensington Town Centre, 43 Protection of heritage items, heritage conservation areas and relics and 46 Development in the vicinity of heritage items, heritage conservation areas and known or potential archaeological sites.

***(a) Does the permissibility change if the proposal is built and operated by Council?***

If the proposal is built and operated by Council rather than operated commercially, the proposal falls under a different definition:

**12 Zone No 2C (Residential C Zone)**

*3) Development for the purpose of the following requires development consent:*

*Community facilities;*

However, the permissibility does not change as the proposed land use falls under the same provision as under the original proposal.

***(b) Does the permissibility change if the proposal is built and operated by UNSW as part of NIDA?***

If the proposal is built and operated by UNSW as part of NIDA rather than operated commercially, the proposal falls under a different definition:

**12 Zone No 2C (Residential C Zone)**

*3) Development for the purpose of the following requires development consent:*

*Educational establishment;*

However, the permissibility does not change as the proposed land use falls under the same provision as under the original proposal.

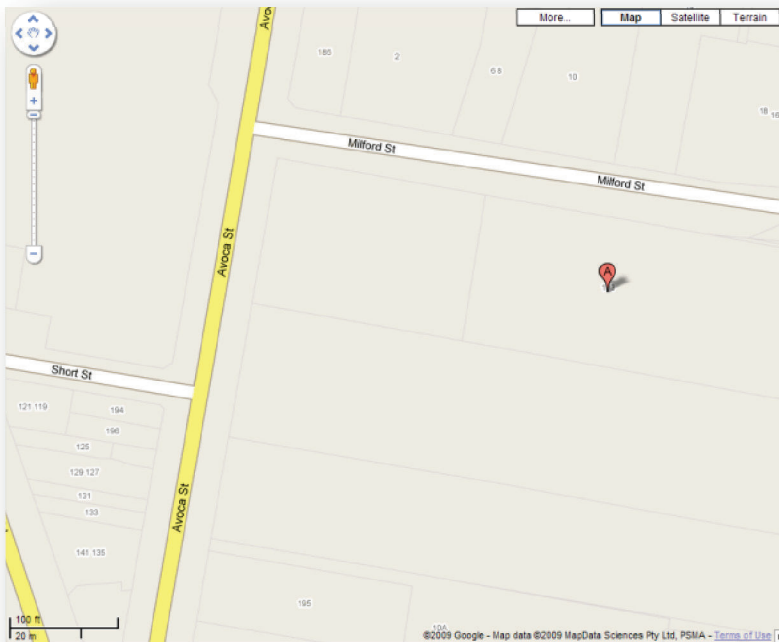


## 6. Alterations to “Ventnor”, a sandstone house located at 193 Avoca Street, Randwick.

---

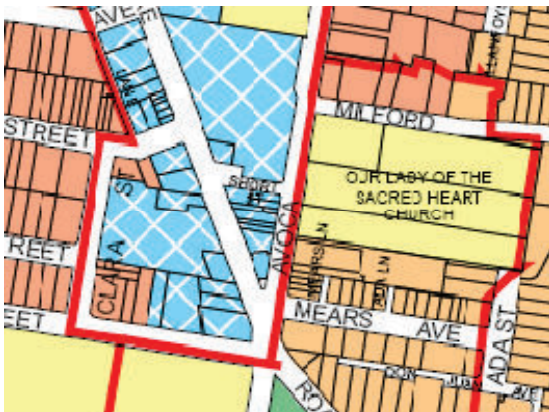
### 1. Identifying the location:

South-eastern corner of Avoca and Milford Streets, Randwick.




## 2. Zoning and other relevant provisions:

- Under the Randwick LEP 1998, this lot is defined as follows:



5 SPECIAL USES



 Heritage Conservation Area (clause 49).

- As shown above, the proposed alterations are located within the Special Uses 5 zone of the Randwick LEP 1998:

### 17 Zone no 5 (Special Uses Zone)

1) *The objectives of Zone no 5 are:*

- To accommodate development for educational, religious or similar purposes on both publicly and privately owned land;*
- To allow appropriate community uses;*
- To enable associated and ancillary development.*

- Development within a Special Uses Zone is permissible only with Council consent with regard to the compatibility of the development with the character of the locality:

### 37A Development in Special Uses Zone

*The Council may grant consent to the development of land within Zone no 5 only if it is satisfied that the proposed development is compatible with the character of the locality and will not adversely affect the amenity of nearby and adjoining development.*

- This lot contains a building that is a Heritage item and falls within a Heritage Conservation Area.

### **Schedule 3 Heritage items**

*193 Avoca Street, Randwick "Ventnor", sandstone house, c 1870      Inventory no. 75.*

Alterations to the exterior of a Heritage building are only permissible with development consent, and only after Council has considered a Heritage impact report. Please note the following provisions relating to Heritage items:

#### **43 Protection of heritage items, heritage conservation areas and relics**

*4) The following development may be only carried out with the consent of the Council:*

*(f) Altering a heritage item by making structural changes to its exterior*

*(g) Altering a Heritage item by making non-structural changes to the detail, fabric, finish or appearance of its exterior;*

*5) The Council must take into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item.*

*6) The Council may grant consent to a development application required by this clause only after it has considered a report that assesses the impact of the proposal on the heritage significance of the heritage item and its setting.*

### **3. Define the proposed land use**

The proposed land use is for an alteration to be made to a building that is a Heritage item and within a Heritage Conservation Area on land zoned Special Uses Zone 5.

### **4. Determine permissibility**

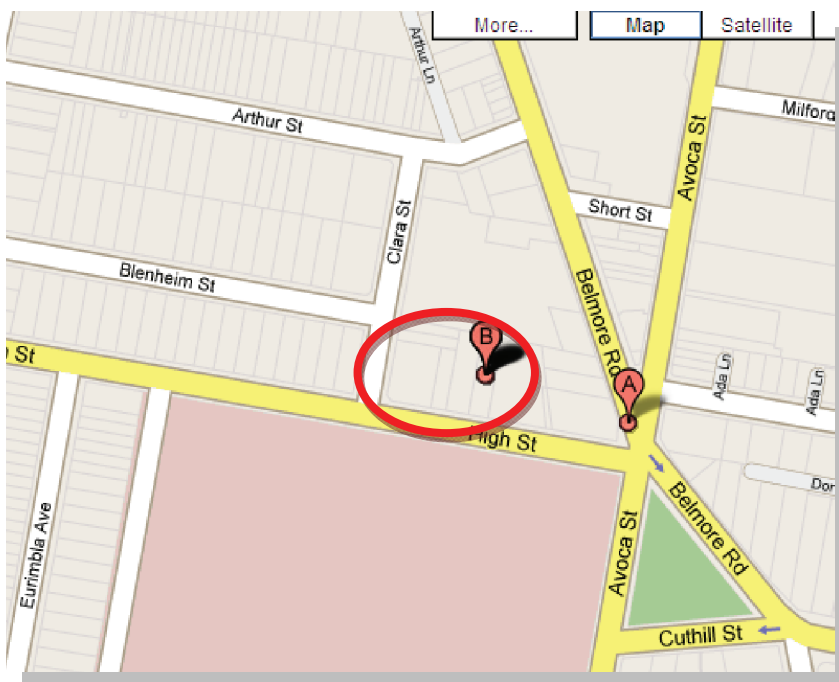
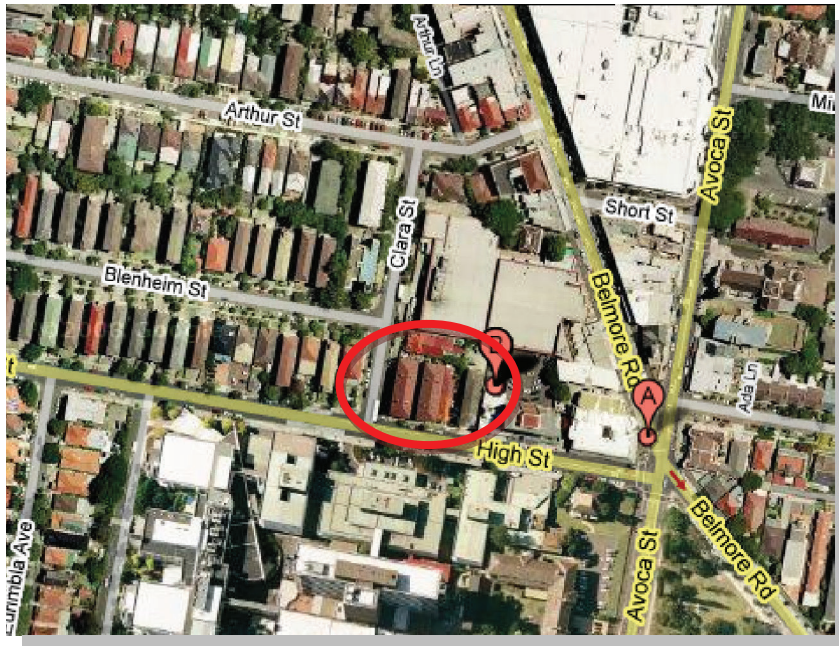
According to the provisions of the Randwick LEP 1998, the proposed development is permissible only with consent from Council, pending assessment of the proposal in relation to the provisions of *17 Zone no 5 (Special Uses Zone)*, *43 Protection of heritage items, heritage conservation areas and relics*, and *37A Development in Special Uses Zone* provisions and *43 Protection of heritage items, heritage conservation areas and relics*.

3. A takeaway fish and chip shop, situated on the eastern corner of the intersection of High Street and Clara Street, Randwick. Does the permissibility change if the proposal is change to (a) a seafood restaurant; (b) a retail shop which sells seafood?

---

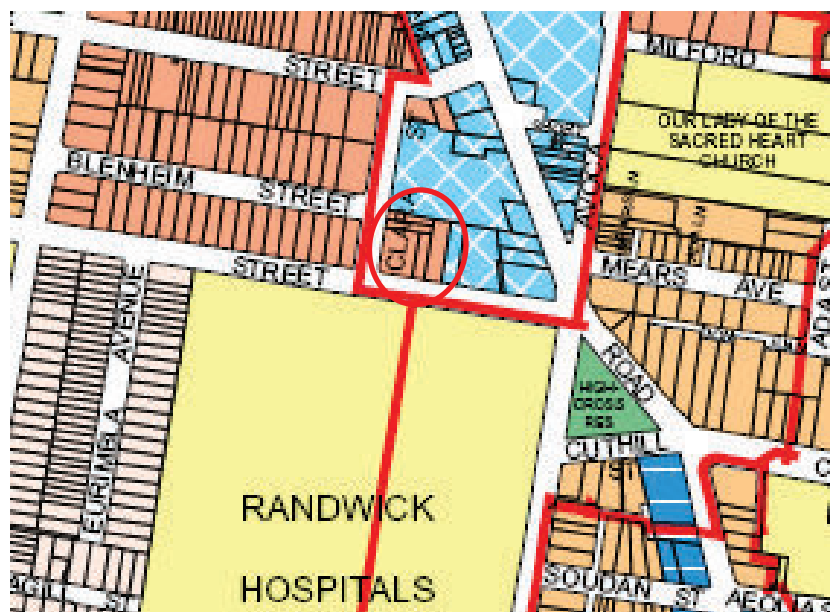
**1. Identifying the location:**

Eastern Corner of High Street & Clara Street in Randwick, NSW



## 2. Zoning and other relevant provisions

Under the Randwick Zoning Map, the zoning is defined as follows:



2C

RESIDENTIAL C



Under the Randwick LEP 1998, boarding houses are permissible in the residential 2C zone with development consent:

### 12 Zone No 2C (Residential C Zone)

(2) Development for the purpose of the following does not require development consent:

*Bushfire hazard reduction;  
Group homes;*

*Public utility undertakings;  
Recreation.*

(3) Development for the purpose of the following requires development consent:

*Bed and breakfast accommodation;  
Boarding houses;  
Car parks;  
Child care centres;  
Communication facilities;  
Community facilities;  
Dwelling houses;  
Educational establishments;  
Health consulting rooms;  
Home activities;*

*Hospitals;  
Motels;  
Multi-unit housing;  
Outdoor advertising;  
Places of worship;  
Public transport;  
Recreation facilities;  
Roads;  
Serviced apartments.*

(4) Any development not included in subclause (2) or (3) is prohibited.

### 3. Define the proposed land use

The proposed land use is for

- a) Takeaway fish and chip shop in a Residential 2C zone.
- b) Seafood restaurant
- c) Retail shop which sells seafood

### 4. Determine permissibility:

From section 3 and 4 we can summarize the following:

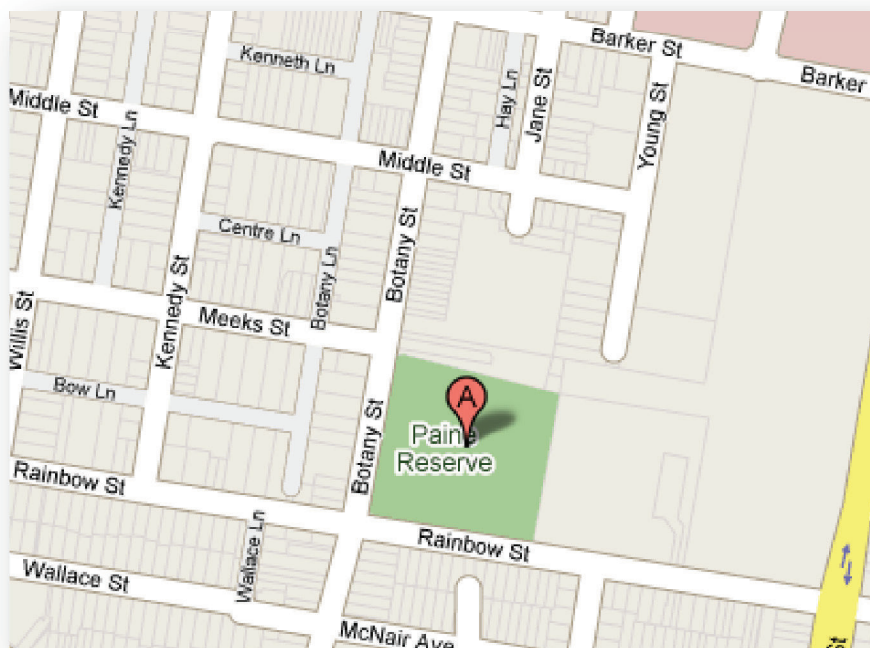
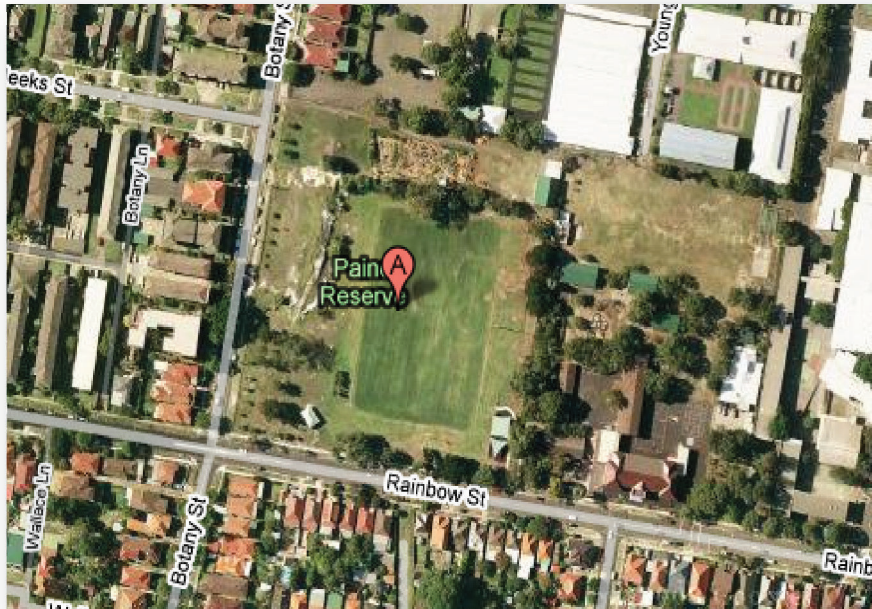
	<b>Proposed</b>	<b>Residential 2C</b>
<b>Land use</b>	Fish and chip shop	This type of development is not included in subclause (2) or (3) and is therefore prohibited
<b>Land use</b>	Seafood restaurant	This type of development is not included in subclause (2) or (3) and is therefore prohibited
<b>Land use</b>	Retail shop which sells seafood	This type of development is not included in subclause (2) or (3) and is therefore prohibited

From the table above we can determine that the proposed development is not permissible due to subclause (4) which states that any development not included in subclause (2) or (3) is prohibited. The proposed developments are not included in the definitions in subclause (2) or (3) and are therefore prohibited. Thus under normal circumstances the development is not permissible.

4. A skateboard ramp and playground, located in Paine Reserve, Kingsford.

---

1. Identifying the location:



## 2. Zoning and other relevant provisions

As shown in the map above the proposed development is located within the Open Space 6A Zone, and under the 1998 Randwick LEP:

### 13 Zone No 6A (Open Space Zone)

- (1) *The objectives of Zone No 6A are:*
- (a) *to identify publicly owned land used or capable of being used for public recreational purposes, and*
  - (b) *to allow development that promotes, or is related to, the use and enjoyment of open space,*

- (2) *Development for the purpose of the following does not require development consent:*

*Works (but not buildings) involved in landscaping, gardening or bushfire hazard reduction;*

*Public utility undertakings;*

*Recreation.*

- (3) *Development for the purpose of the following requires development consent:*

*Buildings ordinarily incidental or ancillary to landscaping, gardening or bushfire hazard reduction;*

*Car parks;*

*Child care centres;*

*Clubs;*

*Communication facilities;*

*Community ~~recreational~~ centres;*



### 3. Define the proposed land use

The proposed land use is a skateboard ramp and playground in an Open Space 6A zone.

A skateboard ramp would be defined as a recreation facility.

**Recreation facility** means a building or a work used for a sporting, exercise or leisure activity, and includes golf courses, racecourses, showgrounds, bowling greens, tennis courts and the like, including any ancillary club building, but (in Part 2) does not include a building or work elsewhere defined in this clause.

A playground would be defined as recreation.

**Recreation** means the use of an area or place for:

(a) A children's playground, or

(b) Recreational or leisure activities which promote the physical, cultural or intellectual welfare of persons within the community, but (in Part 2) does not include any land use elsewhere defined in this clause.

### 4. Determine permissibility:

From section 3 and 4 we can summarize the following:

	Proposed	General Business 3A
Land use	Skateboard ramp	Permissible with consent
	Playground	Permissible

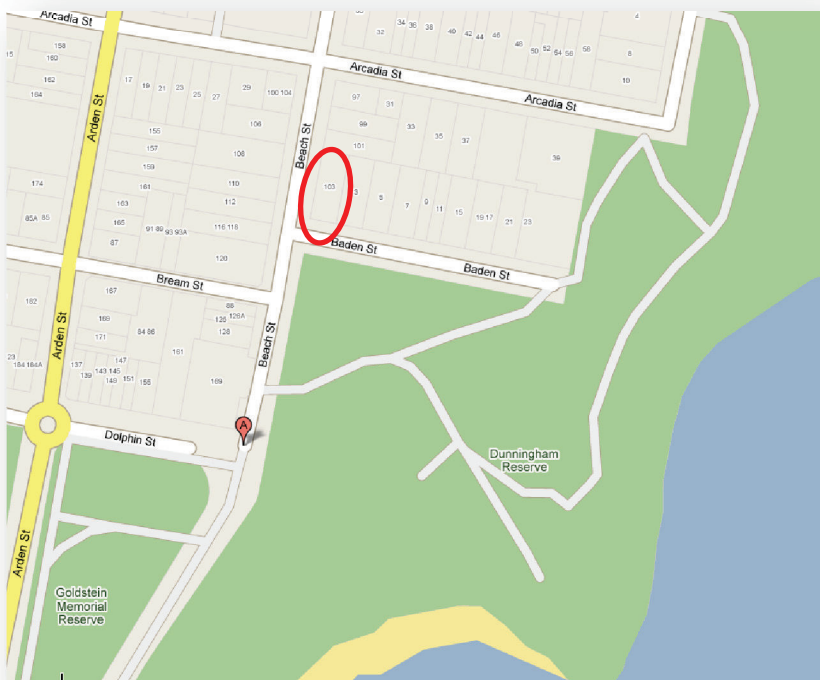
From the table above we can determine that the proposed skateboard ramp is permissible with council consent, while the playground is permissible. Both proposed land uses are also in line with the objectives of the zone.

## 7. A 4 storey (13.5m high) boarding house on the north-eastern corner of Beach Street and Baden Street, Coogee

---

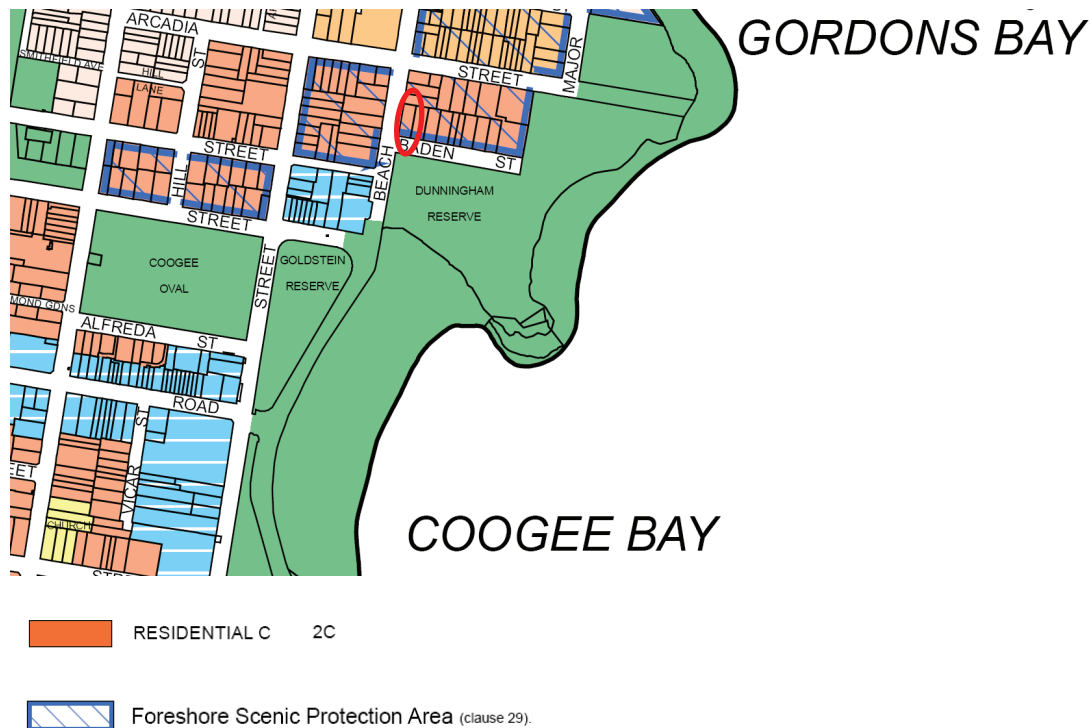
### 1. Identifying the location:

North –Eastern Corner of Beach Street & Baden Street in Coogee, NSW



## 2. Zoning and other relevant provisions

Under the Randwick Zoning Map, the zoning is defined as follows:



Under the Randwick LEP 1998, boarding houses are permissible in the residential 2C zone with development consent:

### 12 Zone No 2C (Residential C Zone)

3) Development for the purpose of the following requires development consent:

*Boarding houses;*

The height limit in the 2C Residential Zone is:

### 33 Building heights

(2) *The maximum height for a building, other than a dwelling house, within Zone No 2C is 12 metres measured vertically from any point on ground level.*

(4) *The maximum height for any external wall of a building, other than a dwelling house, within Zone No 2C is 10 metres measured vertically from any point on ground level.*

(6) *For the purposes of this clause, chimneys, vents and other service installations may exceed the specified height limits, but only where the Council is satisfied that it will not adversely affect the amenity of adjoining or nearby land.*

The proposed location of the property is also within the Foreshore scenic protection area, which defines height limits and aesthetic appearance:

## 29 Foreshore scenic protection area

*(2) The consent of the Council is required to erect a building within the foreshore scenic protection area which exceeds 5 metres in height measured vertically from any point on ground level to the highest point of the building.*

*(3) The Council may only grant consent referred to in subclause (2) after it has considered the probable aesthetic appearance of the proposed building in relation to the foreshore.*

### 3. Define the proposed land use

The proposed land use is a four storey boarding house with a height of 13.5m in a Residential 2C zone within the foreshore scenic protection area.

### 4. Determine permissibility:

From section 3 and 4 we can summarize the following:

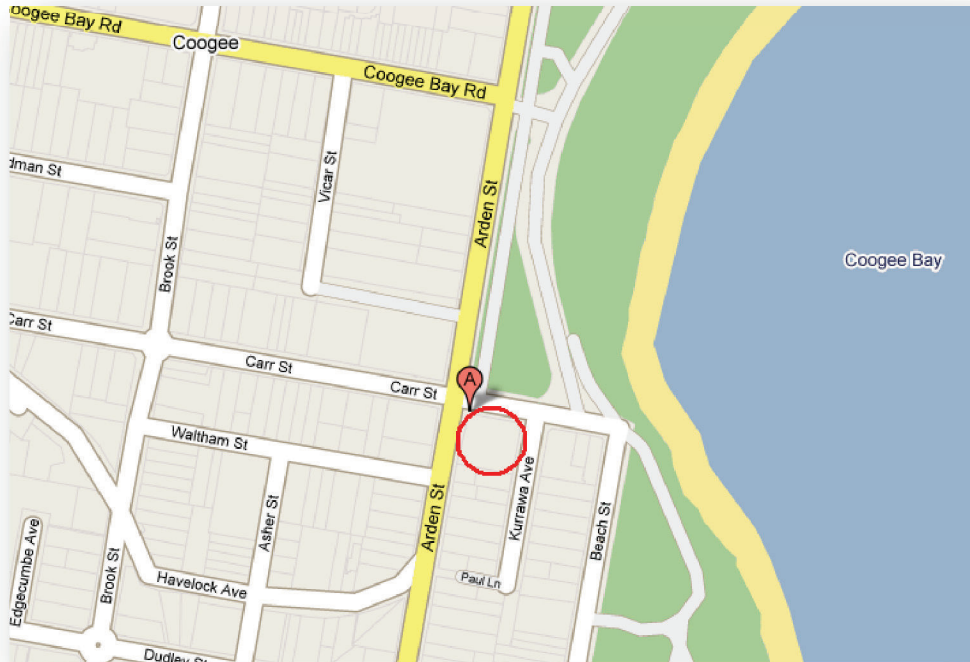
	<b>Proposed</b>	<b>Residential 2C</b>	<b>Foreshore Scenic Protection Area</b>
<b>Land use</b>	Boarding House	Boarding houses permissible with consent	-
<b>Height Limit</b>	13.5m	12m	5m (unless with consent)

From the table above we can determine that the proposed development is not permissible due to the height limit proposed (13.5m). Residential 2C zone limits height to 12m while the foreshore scenic protection area limits the height permissible to 5m (higher building needs council consent). Thus under normal circumstances the development is not permissible.

8. A building containing shops and serviced apartments, having a total floor space ratio (FSR) of 1.6:1 and a height of 12.5m, at 56 Carr Street, Coogee (situated on the south-eastern corner of Carr and Arden Streets on Coogee Beach).



---

**1. Identifying the location:**



## 2. Zoning and other relevant provisions



3A	GENERAL BUSINESS	
	MAXIMUM FLOOR SPACE RATIO	HEIGHT
		(Measured vertically above ground level; at any point).
	3:1 *	24 metres

\* Note:  
The maximum floor space ratio for any part of a building or buildings to be used for the purposes of dwellings, multi-unit housing, group homes, boarding houses and/or serviced apartments is 2:1.

As shown in the map above the proposed development is located within the General Business 3A Zone, and under the 1998 Randwick LEP:

### 13 Zone No 3A (General Business Zone)

(1) *The objectives of Zone No 3A are:*


*(b) to facilitate development of land, in places identified by the Council as suitable to be used as business centres, for commercial, retail, residential and community purposes:*

*(d) to enable a mix of housing types to encourage housing affordability.*

(3) *Any development not included in subclause (2) or (4) requires development consent.\**

**(\* the proposed development is not included in subclause (2) or (4))**

The FSR and height limit for the proposed land are shown in the zoning map legend:

	MAXIMUM FLOOR SPACE RATIO	HEIGHT (Measured vertically above ground level; at any point).
	3:1 *	24 metres

\* Note:

The maximum floor space ratio for any part of a building or buildings to be used for the purposes of dwellings, multi-unit housing, group homes, boarding houses and/or serviced apartments is 2:1.

The height limit is 24m while the FSR is 3:1 or 2:1. \*\*

**(\*\* 2:1 for the proposed mixed use / serviced apartment development)**

### 3. Define the proposed land use

The proposed land use is a mixed-use building containing shops and serviced apartments with a height of 12.5m and FSR of 1.6:1 in a General Business 3A zone.

### 4. Determine permissibility:

From section 3 and 4 we can summarize the following:

	Proposed	General Business 3A
<b>Land use</b>	Mixed-use (shops and serviced apartment)	Permissible with consent
<b>FSR</b>	1.6:1	2:1 for the proposed serviced apartment development
<b>Height Limit</b>	12.5m	24m

From the table above we can determine that the proposed development is permissible with council consent as it conforms to the height and FSR limit as well as the land use defined in the Randwick LEP.