

Our Ref: F2025/00890
(Contact Officer: Joseph Edmonds, ph: 9093 6955)

24 December 2025

Department of Planning, Housing and Infrastructure
4 Parramatta Square,
12 Darcy Street
Parramatta
NSW 2150

Dear Ayse Lavorato,

Reference number	SSD-81426710
Subject Land	138 Maroubra Road, Maroubra
Proposal:	Construction of a nine-storey mixed-use development comprising a residential flat building and ground floor retail premise, including: - 27 x 1-bed apartments, including 7 affordable dwellings - 14 x 2-bed apartments, including 6 affordable dwellings - 23 x 3-bed apartments - Communal open space at rooftop level and on level two Replacement of an existing single level of basement to provide basement car parking, plus additional parking provided above ground on the first storey. The application is seeking an infill affordable housing bonus under the SEPP Housing 2021, noting that 13 affordable housing units are proposed within the scheme.

I refer to your request for Council's review of the Mixed-use development with in-fill affordable housing at 138 Maroubra Road, Maroubra. The following comments are provided for your consideration.

Important background

On 25 June 2024 the Sydney Eastern Planning Panel refused DA/80/2023 seeking approval for *Demolition of existing structures and construction of an 8-storey mixed use development with 3 basement levels comprising 56 units, retail and commercial tenancies, 90 car parking spaces and strata subdivision (Approval required by Water NSW)*.

On 07 November 2024 the Land and Environment Court of NSW **dismissed the appeal ([2024] NSWLEC 1716) and refused the application DA/80/2023**.

Since then, the SEPP (Housing) 2021 has introduced a provision (Chapter 2, Part 2, Division 1) enabling bonus Building Height and Floor Space Ratio for the provision of infill affordable housing which meets the standards set out in this section.

In the previous application, these provisions were not applicable to the proposal due to the Schedule 7A of the SEPP (Housing) 2021 Savings and transitional provisions.

The Low and Mid Rise (LMR) reforms have also been introduced into the SEPP (Housing) 2021, under Chapter 6. The Maroubra Junction is nominated as a town centre under these reforms. The application is not considered under these reforms, because the site is located within the town centre as shown

below. However, it is noted that the LMR area surrounds the town centre (with a walking distance of 800m).

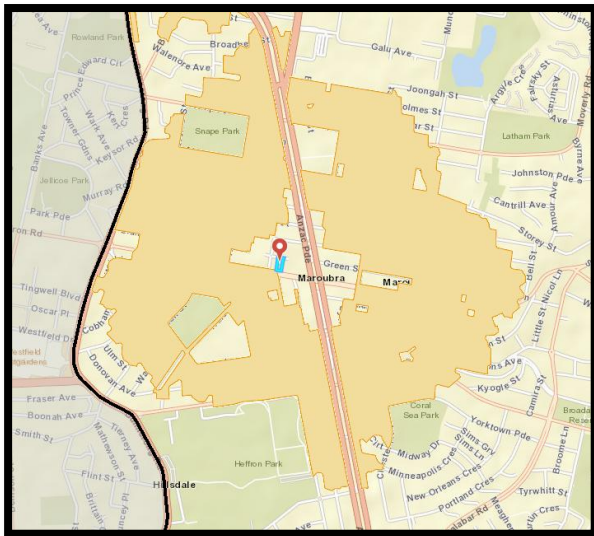


Figure 1: Maroubra Town Centre and the surrounding LMR area (Source: Interactive Mapping)

Sites within the inner area can have a maximum height of 22m. Hypothetically, if the full 30% AFH bonus is applied to this, then the maximum height could be up to 28.6m, subject to relevant environmental compliance and site context considerations.

Further assessment framework considerations:

The previous proposal had a 25% shortfall in the required car parking. In the current proposal, the carparking is relying on the SEPP (Housing) 2021 non-discretionary development standards.

Councils' calculations show that 58.3 spaces are required for the units.

- 59 residential spaces are proposed.

The following other car parking spaces are provided.

- 6 visitor and retail;
- 5 carshare.

The total car parking and the configuration is not supported, for the reasons outlined further in this advice due to the non-compliant provision of visitor and retail parking spaces.

The previous application (DA/80/2023) resulted in a breach of the 25m Building Height Development Standard, which was not supported by Council, the Sydney Eastern Planning Panel or the NSW Land and Environment Court.

It is acknowledged that this proposal is seeking to utilise the SEPP (Housing) affordable housing bonus. For this to be utilised, the standards must be satisfactorily met. This is discussed within this letter noting that the proposal is still breaching the maximum Building Height under the subject proposal.

Background research and analysis is currently underway for the Maroubra Junction Town Centre. This work will be progressed in 2026, with a report to Council in mid-2026 for public exhibition. The current DCP chapter for Maroubra Junction Town Centre has been updated to ensure references to legislation, policies and plans are current. Therefore, the existing DCP- D4 is applicable and relevant for consideration of any new development proposals.

https://www.randwick.nsw.gov.au/__data/assets/pdf_file/0011/426737/D3-Maroubra-Junction-Draft-Randwick-DCP-2025.pdf

This is relevant because the previous commentary by the applicant argued that the DCP was too old to reflect the current and future desired character of Maroubra Junction.

Councils' methodology for reviewing the proposal

Council has considered the previous determination and undertaken a comparative analysis to determine the proposed changes under the current SSD scheme.

A site inspection of the exterior of the site was undertaken by the Planning staff on 09 December 2025. No referral comments have been provided from Council's internal experts and the subject submissions is focused on the alignment of the scheme with the planning framework.

Council has not been able to access Appendix G (Deed of agreement with NSW Police) and is therefore not aware of any agreements made with NSW Police. Council has also not accessed the letter of offer to the NSW Police – Appendix L.

Differences between the previous application and subject application

Council understands that the key changes include:

1. Reduced excavation and therefore less basement car parking
 - a. Previously there was 3 levels of basement, now there is 1 basement level.
 - b. This results in less carparking being proposed
 - c. Some of the carparking will now be located on level 1.
2. Reduced retail spaces on the ground floor
3. No commercial space on the 1st floor, this has been replaced with carparking.
4. There is an additional level of built form, the maximum RL is 57.8, whereas the previous maximum was RL55.7.
5. Reconfiguration of the eastern façade.
6. Reduction of the rooftop plant and equipment.

Key Issues and areas of non-compliance:

Building Height

Councils' methodology for measuring building height is to take the existing ground level (being the underside of the existing basement level slab) RL 22.52 and calculate what the building height is based off the maximum height of the building in accordance with the most recent direction of the NSW LEC.

The maximum overall height of the development being the pergola structure is at RL 57.8, as shown below.

The maximum building height is 35.28m. Therefore, the development exceeds the AFH Bonus height of 32.5m by 8.55%.

No Clause 4.6 Variation Request has been provided for assessment and as such it is not considered that consent cannot be granted in the absence of a variation request.

Furthermore, much of the reasoning for the previous refusal by the Sydney Eastern Planning Panel and the Land Environment Court was based upon the associated amenity impacts above the Building Height development standard being an unreasonable outcome. Council considers this has not changed under the subject SSD scheme.

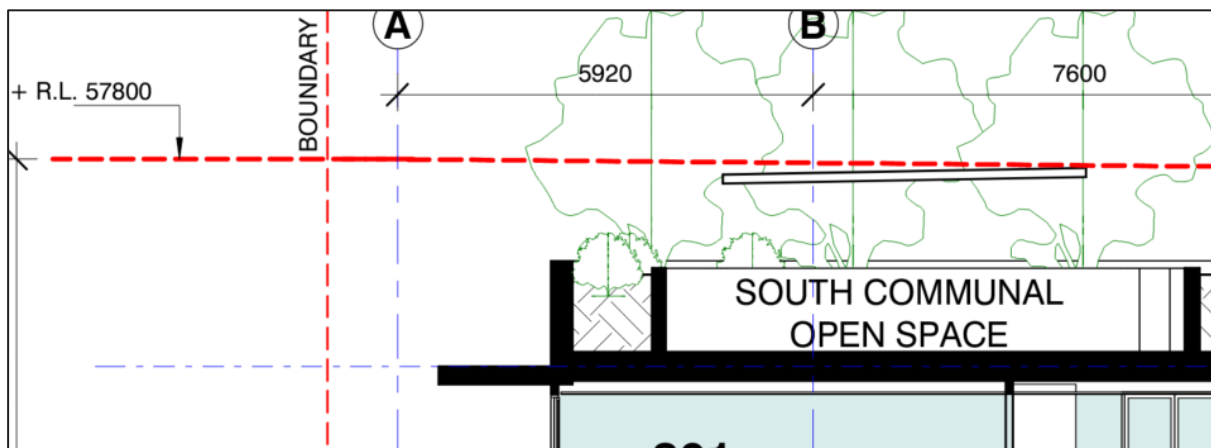


Figure 2: Section showing the height of the pergola (Source: Applicant)

Car parking rates

Considered under the SEPP (Housing) 2021:

Room type and number	Calculation	Spaces Req.
20 x 1-bedroom units	20 x 0.5	10 spaces
7 x 1-bedroom affordable units	7 x 0.4	2.8 spaces
8 x 2-bedroom units	8 x 1	8 spaces
6 x 2-bedroom affordable units	6 x 0.5	3 spaces
23 x 3-bedroom units	23 x 1.5	34.5 spaces
	Total	59 Residential spaces

In addition to this 6 visitor and retail spaces and 5 car share spaces are proposed.

Based on Part B7 of the Randwick Development Control Plan 2013, the required visitor spaces are 16 spaces.

Council raises issue with the provision of visitor and retail spaces. The proposal does not provide the required retail spaces within the development, as noted in this advice. Therefore, the proposal does not provide sufficient parking, and it was noted that in the original assessment the applicant's traffic and parking assessment had sought to rely upon the public parking within the Pacific Square development, which was raised as an objection by the neighbouring shopping centre operator.

The proposal is for 263m² of retail space (which is far below the required amount) based on this 6.57 spaces are required.

Based on the total development GFA of 6,226m², a minimum of 30% of this should be used for retail/commercial purposes. This equates to 1867.8m², which would require 47.7 carparking spaces. It is further noted that the loss of commercial and retail space within the Maroubra Junction contrary to the relevant DCP and master planning framework is a sub-optimal land use planning outcome and generates a poor urban design outcome. Council recommends that parking demands should be catered for in a basement responding to the capacity of the constrained site area.

Housing SEPP

Affordable Housing Calculations

Council disagrees that the “affordable lobbies” can be counted as affordable housing. Council would recommend that only the internal floor area of units is included to inform the relevant development bonus.

Therefore, 31m² must be deducted from the GFA of the affordable housing calculation. This results in 937m² of affordable unit floor area, which is 14.67%. Therefore, the applicable AFH bonus is also reduced in terms of the maximum height and GFA bonus.

Solar access and Deep soil are considered under Part 4 of the Housing SEPP – the ADG. Solar access must consider the future development of 138 Maroubra Road and what impact this will have on the development site, particularly in relation of further impacts associated with any proposed building height variations and the relevant environmental planning grounds provided by the applicant.

The proposal does not provide any deep soil. It is recognised that no deep soil currently exists on the site and that this should be sought to be improved adjacent to the public domain.

Character test: the applicant must satisfy the following design requirements:

(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—

- (a) the desirable elements of the character of the local area, or*
- (b) for precincts undergoing transition—the desired future character of the precinct.*

Building Envelope

1. Building separation

The proposal does not comply with the numerical requirements of the building separation in the Apartment Design Guide. The following areas of concerns are noted in the review of the plans:

- On the southern frontage there is a nil side setback to the east and west from level 1 to level 8. These are blank walls.
- The terraces on the 2nd floor also provides a nil side setback to the west and a nil rear setback to the north. The communal open space has a nil side setback to the east.
- From levels 3 – 8, there is a 3m side setback to the west.
- The rear side setback is 3m and the eastern side setback to the east is 6.45m.

These separations and setbacks are not supported. Concern is raised for the proposed western side setback. It is not considered reasonable for the applicant to assume the redevelopment of the neighbouring property, without any formal block plan. The share of setback distances are not equitable, noting that the development site provides 3m, whereas the adjoining site is being expected to provide a minimum of 15m.

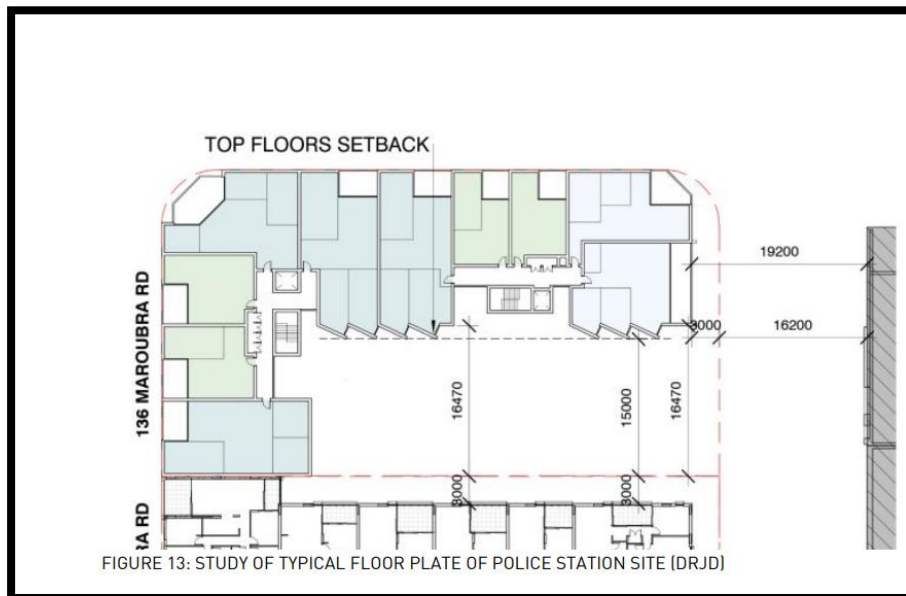


Figure 3: Inequitable share of building separations with the Police Station (Source: Applicant)

2. Heavy reliance on privacy measures

The side facing balconies to the west are not appropriate. These balconies are enclosed on three sides and as shown below proposed to be fitted with windows and louvres in a wintergarden arrangement. Council does not consider these afford sufficient amenity to future occupants in terms of private open space.

Additionally, the orientation of these rooms is not appropriate.

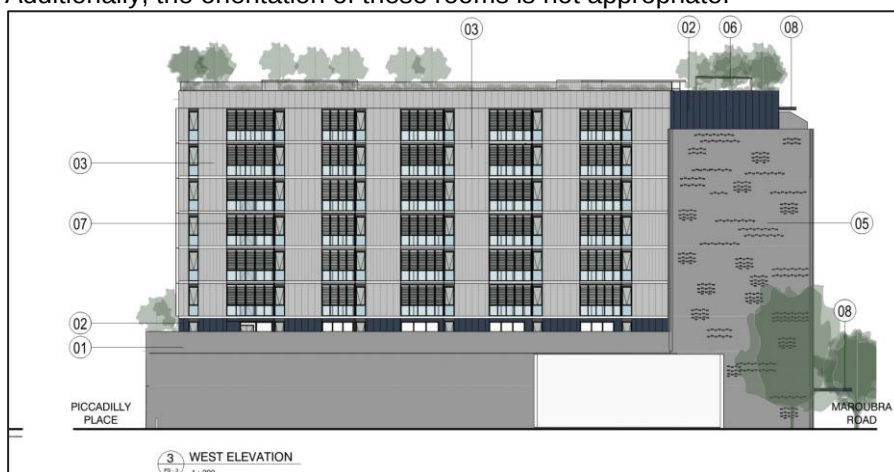


Figure 4: Western Elevation showing the configuration of the proposed balconies (Source: Applicant)



Figure 5: Material schedule of the proposed "balconies"

3. Unarticulated and extensive expanses of walls

The proposal includes a wall of 45m in length along the western side of the development, with only inset balconies, which council considers will present as predominantly enclosed areas, as per the assessment above. This significantly exceeds the building depth controls and it will result in the presentation of unacceptable bulk and scale for 136 Maroubra Road.

4. Vulnerability of future overshadowing from the redevelopment of the Police station – inconsistent with Maroubra Junction DCP.

As shown in the Eye of the Sun Diagrams much of the development will not receive sunlight in the case of a similar scale redevelopment of the Police Station to the west and that sunlight access would be predominantly lost from 1:30pm to 3pm.

As per the block controls in the Maroubra Junction DCP.

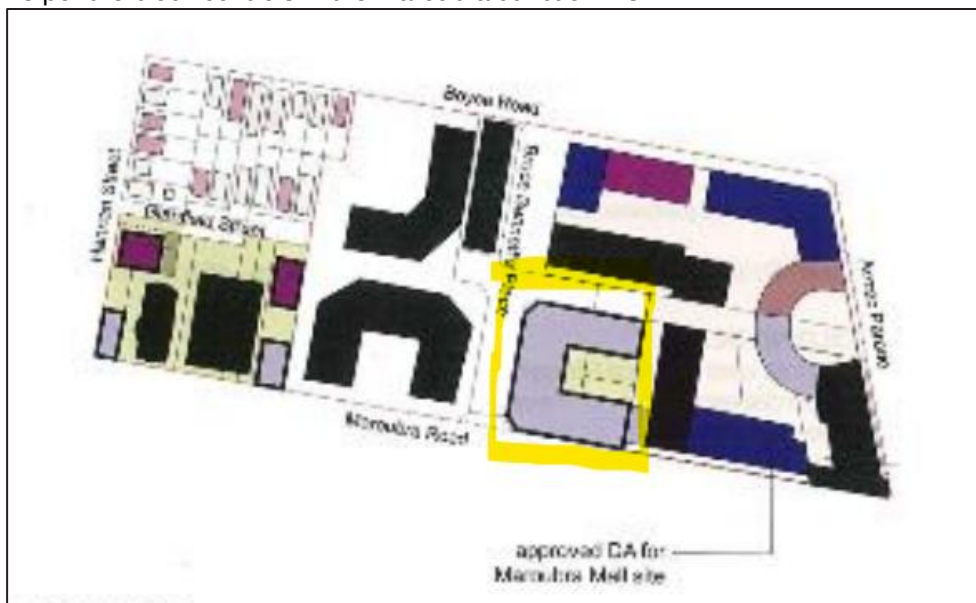


Figure 6: Block 6 Plan in the Maroubra Junction DCP (Source: Draft RDCP 2025)

Maroubra Junction Development Control Plan

Randwick Council's Draft DCP states that the objectives of Block 6 are to:

1. *Reinforce Anzac Parade as the main street*
2. *Reinforce Maroubra Road as the cross street*
3. *Reinforce the "Junction" of Maroubra Road and Anzac Pde as the main focus of the Maroubra Junction Centre.*
4. *Encourage a mix of commercial/retail uses within the retail core*
5. *Provision of an open space in the middle of the centre away from the traffic noise and surrounded by shopping activity providing the focus for the centre*
6. *Provide a transition in scale from the centre along Boyce Rd, Maroubra Rd and Glanfield St to the lower scale residential buildings on the periphery.*
7. *Maintain the amenity of the residential buildings by providing a green buffer between the busy commercial/retail activities on Anzac Parade and adjacent low scale residential use.*

The building envelope plan anticipates a maximum of 6 stories along Maroubra Road. It also states that between Anzac Parade and Bruce Bennetts Place, there should be two levels of retail/commercial with residential above that is not provided in the subject scheme.

Assessment against the objectives:

The proposal does not reinforce Anzac Parade as the main street or Maroubra Road as the secondary Street. The scale of the proposed building does not reinforce the junction (the corner of Maroubra Rd and Anzac Pde) as the main focus of the centre and will not provide a transition in scale.

Section 3.1.3. Building Envelope states that:

- a) Residential Floors – GFA achieved occupies not more than 70% of the maximum building envelope for residential floors.

As discussed in the parking section of this advice, the proposal has not provided the required retail and commercial uses. The ground floor configuration does not foster retail activation, with shops and commercial uses. Instead, it is used for the building services and storage or car access. No justification has been provided for the removal of the previous basement levels, and the reasoning for this change is unclear in the documentation.

There is only 1 retail space provided, which is 263m². The other 1220m² of the ground plane is taken up by services, storage or access and is not a supported outcome. As per the Maroubra Junction DCP, the ground and first floors should accommodate further retail and commercial uses.

Section 3.1.5. Building Depth

- a) The maximum allowable depth of residential building envelopes is 22m
- b) The maximum allowable depth of commercial/retail building envelopes is 25m.

The proposed building depth is 55m (residential levels). This is more than double the anticipated building depth in the DCP and is not supported by Council.

Section 3.1.6. Building separation

Building height	Building separation requirements
Up to 4 storeys/15 metres	• 12m between habitable rooms and balconies • 9m between habitable rooms and balconies/non-habitable rooms • 6m between non-habitable rooms
5 to 8 storeys/18-27 metres	• 18m between habitable rooms and balconies • 13m between habitable rooms and balconies/non-habitable rooms • 9m between non-habitable rooms

Figure 7: Maroubra Junction DCP building separation requirements (Source: Draft RDCP 2025)

As previously outlined, the proposal does not comply with the building separation or setbacks. This is a particular issue along the western elevation.

Section 3.1.9. Side and rear setbacks

The relevant objectives are:

Side setbacks

- Minimise the impact of development on light, air, sun, privacy, views and outlook for neighbouring properties, including future buildings.

This has not been achieved as the proposal has not adequately considered the future development of 138 Maroubra Road. The applicant has designed a potential development at 138 Maroubra Road, but this does not align with the RDCP or a realistic future development at 138 Maroubra Road.

Section 3.1.10. Rights of carriageway

Roads and Maritime Service has advised that new vehicular access to developments fronting Maroubra Road will not be supported. Therefore, the proposed crossing and access on Maroubra Road is unlikely to be supported.

Inconsistency with the zone objectives and public interest

The site is zoned E2 – Commercial Centre and it is located within the Maroubra Junction Town Centre.

The proposal does not comply with the following objectives:

- *To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity.*
- *To encourage investment in commercial development that generates employment opportunities and economic growth.*
- *To encourage development that has a high level of accessibility and amenity, particularly for pedestrians.*
- *To enable residential development only if it is consistent with the Council's strategic planning for residential development in the area.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community.*
- *To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.*
- *To support a diverse, safe and inclusive day and night-time economy.*

Council comments:

The proposal is not strengthening the role of the commercial centre because it is not providing suitable retail or commercial spaces. The ground floor should not consist of services, storage and access, this is a poor design outcome.

The development is not providing sufficient ongoing investment in commercial development or employment opportunities.

The proposed development does not have high levels of accessibility or amenity, especially for pedestrians.

The development is not consistent with Councils DCP / block plan and therefore the strategic planning framework.

The proposal does not provide a sufficient active frontage to attract pedestrian traffic.

The proposal does not facilitate a high standard of urban design and doesn't achieve a suitable sense of place for the local community.

Ground Floor comments

The configuration of the ground floor is not supported. It is unclear why the additional levels of basement have been removed from the proposal. The services and storage areas proposed on the ground floor would be better suited in the basement.

The entrance to the building from Maroubra Road is inappropriate, consisting of 20m or 40m corridor length to the lift. This area has no natural light and passes by the services and storage rooms.

A vehicular exit onto Maroubra Road is not appropriate outcome – noting the previous comments in relation to the RMS.

The proposed retail space is an undesirable configuration, being 7m wide and 35m deep.

Carparking configuration

- The basement carpark now exits onto Maroubra Road, this is not supported and is supposed to facilitate an active retail / commercial frontage under the relevant DCP framework.
- The elevated carparking at the first floor level and the areas taken up for access and ramps is not supported.

Level 1 comments

The affordable units on level 1 are south facing with two of them being single aspect. These also directly adjoin the elevated car parking which is not a supported configuration and generates insufficient amenity for future occupants in terms of natural light and potential acoustic impacts. Council has developed Affordable Housing Design Guidelines which are explicit in relation to the amenity expected for affordable housing apartments. These Guidelines were adopted by Council in December 2025 and are available on Council's website.

The submitted landscape plan doesn't appear to align with architectural plans for the design of the landscaped area. This will be situated below the retaining wall of Pacific Square. It is unclear how this space is intended to be used by future occupants noting its constrained position within the development.

Further assessment required:

- No consideration has been provided regarding how the development will impact the childcare centre to the east. The interface and levels with the childcare centre are very unclear.
 - o It appears that the balcony constituting the outdoor space has not been surveyed due to an "obstructed view". Council does not consider this acceptable.
 - o The awning to the outdoor space is at RL 36.57. Meaning that this outdoor space approximately aligns with the third floor of the proposed development.



Figure 8: Photo of the existing child care outdoor space (Source: Google Images)

Concluding comments

Council recommends that the above matters should be considered and addressed as a part of the Department's assessment of the application.

Should you or the representatives of the Department of Planning, Housing and Infrastructure wish to discuss the above matters further or would like to meet with the relevant Council Officers, please feel free to contact Council's planning team on 9093 6828 or by email ferdinando.macri@randwick.nsw.gov.au.

Yours Faithfully,

**A/Manager, Development Assessment
Randwick City Council**

