



Additional Items

Agenda: *Development Control Committee*

Date: *Monday 10 December 2007*

Time: *7.30 pm*

Session: *One*

Part: *Four*

Item: *D7 & D8*

Development Control Committee

Outline of Meeting Protocol & Procedure:

- The Chairperson will call the Meeting to order and ask the Committee/Staff to present apologies or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Committee.
- If person(s) wish to address the Committee, they are allowed four (4) minutes in which to do so. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (eg applicant/objector), the objector speaks first.
- At the conclusion of the allotted four (4) minutes, the speaker resumes his/her seat and takes no further part in the debate unless specifically called to do so by the Chairperson.
- If there is more than one (1) person wishing to address the Committee from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- The Chairperson has the discretion whether to continue to accept speakers from the floor.
- After considering any submissions the Committee will debate the matter (if necessary), and arrive at a recommendation (R items which proceed to Full Council) or a resolution (D items for which the Committee has delegated authority).

Delegated Authority (“D” Items):

- To approve, disapprove and take action on Development and related applications submitted or any other matter referred by the Council or other Committee; to a site inspection for recommendation back to the Development Control Committee. (Except for those applications within the category of designated development, or matters as specified by resolution of the Council taken from time to time.
Note: This not to limit the discretions of nominated staff members exercising Delegated Authorities granted by the Council.)
- General implementation of matters touching upon or within the strategic goals and policy directives of the Council, and in respect of which due provision has been made in the Council's current budget.
- To require such investigations, reports or actions as considered necessary in respect of matters contained within the Business Agendas (and as may be limited by specific Council resolution).
- Confirmation of Minutes of its Meeting.
- Any other matter falling within the responsibility of the Development Control Committee and not restricted by the Local Government Act or required to be a Recommendation to Full Council as listed below:

Recommendation only to the Full Council (“R” Items):

- Specified developments, as may be determined and listed by the Council by resolution taken from time to time.
- Matters which involve broad strategic or policy initiatives within the responsibilities of the Committee.
- Matters requiring the expenditure of moneys and in respect of which no Council vote has been made.
- Matters not within the specified functions of the Committee,.
- Matters reserved by individual Councillors in accordance with any Council policy on "safeguards" (and substantive changes)

Committee Membership: 7 Councillors

Quorum: The quorum for a committee meeting is 4 Councillors

Additional Information Relating to Committee Matters

Site Inspection

Other Matters

Additional Items
Meeting Agenda
Session One – Commencing 7.30pm
Part Four

Item	Subject	Pages
Site Inspection Items		
D7	DA325/2007 – 18 Bathurst Street, Woollahra – Demolition of existing & erection of a new dwelling with swimming pool – 18/5/2007 *See Recommendation Page 308	307-379
Other Delegated Item		
D8	DA85/2007/1 – 88-90 Wolseley Road, Point Piper – Demolition of existing dwelling and construction of new three storey dwelling including swimming pool and landscaping. 06/11/2007 *See Recommendation Page 389	380-496

DEVELOPMENT CONTROL COMMITTEE SITE INSPECTION REPORT

ITEM No.	D7
FILE No.	DA 325/2007
ADDRESS:	18 Bathurst Street WOOLLAHRA 2025
PROPOSAL:	Demolition of the existing and erection of a new dwelling with swimming pool
TYPE OF CONSENT:	Local
APPLICANT:	Porebski & Associates
OWNER:	Mr A & Mrs L Heyko-Porebski
DATE LODGED:	18/05/2007
AUTHOR:	Mr D Lukas

Site Inspection

A site inspection in relation to this Development Application was conducted on Thursday 6 December 2007, with the following Councillors and staff present:

Present: His Worship the Mayor, Councillor Rundle ex-officio (Chair)
Councillors Christopher Dawson
Wilhelmina Gardner
Isabelle Shapiro

Staff: N Economou (Acting Manager Development Control)
J La Posta (Senior Assessment Officer)
D Lukas (Senior Assessment Officer)
S O'Connor (Secretarial Support – Governance)

Apologies: Councillors Keri Huxley

The following people addressed the Councillors:

Trevor Sykes of 19 Bathurst Street, Mrs Siyali of 21 Bathurst Street, Peta Wilson of 24 Bathurst Street, Mrs White of 34 Bathurst Street, Ms Hewston of 10 Harkness Street, Mr & Mrs Scott-Murray of 15 Harkness Street & Mr Lyons on behalf of 15 Harkness Street & Lyra Bennett Moses of 16 Bathurst Street, objectors & Mr Porebski Owner Applicant & Lewis Adey on behalf of the Owner Applicant.

The Councillors at the site inspection submit the following recommendation for consideration by the Development Control Committee:

Recommendation:

THAT the Council defer consideration of development consent to Development Application No. 325/2007 for demolition of the existing and erection of a new dwelling with swimming pool on land at 18 Bathurst Street Woollahra, to allow the applicant to confer with Council Staff in order to address the following matters:

- A reduction to the overall height of the development by accommodating a reduction to the ground and 1st floor levels, floor to ceiling heights to be more consistent with Council's floor to ceiling height control of 2.7 m.
- Provision of an additional 10 square meters of deep soil landscape area to achieve compliance with the DCP control.

Annexure: Development Assessment Report submitted to the Development Control Committee at its meeting on Monday 3 December 2007.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D8
FILE No.	DA 85/2007/1
PROPERTY DETAILS	88-90 Wolseley Road POINT PIPER Lot & DP No.: LOT: 10 & Lot 11 DP: 1000036 Side of Street: West ^[d2] Site Area (m²): 655 + 789 (Total - 1444) Zoning: Residential 2(a)
PROPOSAL:	Demolition of existing dwelling and construction of new three storey dwelling including swimming pool and landscaping
RECOMMENDATION:	Approval
TYPE OF CONSENT:	Integrated
APPLICANT:	Ormsby Kerrins Freeman
OWNER:	Mr PJ & Mrs T Ryan
DATE LODGED:	14/02/2007 – Original submission 02/08/2007 – Replacement application 06/11/2007 – Amended plans
AUTHOR:	Mr D Lukas

1. PREAMBLE

The application was initially reported to the Development Control Committee (DCC) at its meeting on the 2 October 2007 with a recommendation for refusal. The DCC considered the matter and resolved to have an on-site meeting.

The on-site meeting was conducted on Thursday 4 October 2007. It was resolved at this meeting that the application should be refused based upon the reasons for refusal outlined in the assessment report presented to the DCC dated 2 October 2007.

The application was reported back to the DCC at its meeting on the 15 October 2007 with a recommendation for refusal, as had been resolved at the site inspection. The application was called to full Council by Councillor Petrie to allow for a discussion of the amended details that were submitted to address the reasons for refusal prior to the Council meeting.

A memorandum in the form of late correspondence was addressed to The Mayor and all Councillors dated 22 October 2007 which provided an assessment of the amended details submitted.

The Council, at its meeting of 29 October 2007, resolved:

- “1. That consideration of Development Application No.85/2007 for demolition of existing dwelling and construction of new three storey dwelling including swimming pool and*

landscaping, be deferred to enable staff to assess the changes to the plans submitted in the late correspondence tabled by Robert Chalmers & BBC Consulting Planners & Graham Ormsby of Ormsby Kerrins Freeman.

2. *That the applicant provide detailed architectural drawings based on the amended details submitted and a further report assessing these changes be presented back to the Development Control Committee.”*

The applicant subsequently provided amended and detailed architectural drawings together with supplementary specialist reports. This report addresses the changes having regard to the reasons for refusal in the original report presented to Council dated 2 October 2007.

The *original report* and memorandum are attached as *Annexure B* and C respectively.

2. AMENDMENTS TO PROPOSAL

Amended plans were submitted which included the following amendments:

- The redesign of level 5 (entry/street level). In the amended scheme there is a central core which has a double carport located on its northern side and a double garage located on its southern side. The setback from the northern (side), southern (side) and eastern (front) boundaries has been increased.
- The reconfiguration of the landscaping to the western side of the dwelling, including the replacement of a single retaining wall with two smaller retaining walls with a landscape planter between.

3. REFERRALS

3.1 Development Engineer

Council's Development Engineer has provided the following comments:

Site Drainage comments

There are generally no objections to the Stormwater disposal concept plan prepared by Clapham Design Services P/L Dwg No WP102-H01, 02 Issue 1 dated 9.2.07 and 03 Issue 1B dated 10.10.07. However, sheet 1 of the plans has not been amended to reflect the latest changes to the parking and access. As a result the proposal to reconstruct the street drainage pit is not required.

The concept plan is subject to the submission and approval of Stormwater Management Plan for the site prior to release of the Construction Certificate. Details are to be in accordance with Council's Draft Stormwater Development Control Plan and Local Approvals Policy. This is to ensure that site stormwater is disposed in a controlled and sustainable manner - Conditions applied.

Construction Management comments

As a result of the site constraints, limited space and access a Construction Management Plan is to be submitted to Council. Due to the lack of on-street parking availability a Work Zone will be required from Council during construction and is conditioned accordingly.

Impacts on Council Infrastructure comments

See previous TS Referral Response dated 3 April 2007, 16 November 2007.

While this proposal is an improvement over the previous application with reduced driveway widths and the lessening of the garage impacts on the street frontage it still does not comply with the intent and the objectives of the WRDCP or the issue raised in my previous memos.

Traffic, Vehicle Access & Accommodation comments

The propose parking for 4 vehicles is in excess of C5.5.5 of the WRDCP which infers 2 on-site parking spaces per lot. Due to the increase in the number of cars and subsequent vehicle movements a single access is considered appropriate with vehicles entering and exiting the site in a forward direction. See previous TS Referral Response dated 3 April 2007 & 16 November 2007.

Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report by Jeffery & Katauskas P/L Ref: 20474Z2rpt dated 26 September 2006 has been submitted in support of the application. Major excavation is proposed on site up to 11m deep and will extend to 1.5m of the north and south boundaries.

The report identified that the property has a subsurface profile of surficial topsoil fill over sandy clay and sandstone at relatively shallow depths. Seepage / groundwater was encountered on the rock surface. All adjoining structures and buildings appear to be good condition.

The report made comments and recommendations on the following:

- *Subsurface conditions*
- *Condition of adjoining assets*
- *Dilapidation reports*
- *Vibration / vibration monitoring*
- *Rock anchors – It should be noted that Council will only consider temporary anchors in road reserve which will subject to a separate S138 Roads Act application.*
- *Excavation*
- *Stability & support*
- *Hydrogeological issues*
- *Further geological work*

Conditions covering these matters as well as others identified by Council have been added to the Referral.

Other comments

Due to the likelihood of additional power usage as a result of the new development, Energy Australia has requested that the applicant contact them with regards to the possible provision of a new Electricity Substation on site.

Subdivision comments

The site is comprised of lots 10 and 11 of DP 1000036. These 2 sites should be consolidated into one. Otherwise easements, ROW's etc may have to be created over the existing lots

RECOMMENDATION

Council's Development Engineer has determined that the proposal is still not satisfactory in its current state due to unsatisfactory access and parking arrangements and non compliance with the objectives of the RDCP."

The access and parking arrangements and the non-compliance issues raised by Council's Development Engineer will be assessed below.

Council's Development Engineer has drafted conditions without prejudice should Council approve the application. These conditions form part of the recommendation.

3.2 Landscaping Officer

Council's Trees Officer has provided the following comments:

"This proposal represents a major negative impact on the landscape amenity of the site. The natural appearance of the site when viewed from Sydney Harbour will be greatly reduced.

A number of trees proposed to be removed are not suitable for retention as a result of poor health or form. The tree removals proposed are offset, in part, by the proposal to plant additional trees within the foreshore area of the site.

*Of the trees proposed to be retained, the trees of highest value and most at jeopardy are **Tree 23 - Corymbia citriodora Lemon-scented Gum, Tree 28 - Angophora costata Sydney Red Gum and Tree 36 - Angophora costata Sydney Red Gum.** **Tree 28** is of iconic status because of its statue and its location adjacent to the high water line of Sydney Harbour. This species is endemic to Sydney Harbour. This tree warrants an elevated level of protection.*

*The incursion of the Loggia slab into the north east segment of the root system of **Tree 23** is particularly problematic. Most published works on the protection of tree root zones prescribe a Critical Root Zone (CRZ) around the tree where no excavations or level changes are to be undertaken. A single incursion into the CRZ may be permitted. The CRZ for this tree is to be 3.5 metres radius.*

*A CRZ around the important trees must be established. . The submitted landscape plan will have to be altered to show that no excavations or level changes are undertaken within this CRZ with the exception of the single incursion adjacent to **Tree 23**.*

RECOMMENDATIONS

Council's Tree and Landscape Officer has determined that the development proposal is satisfactory in terms of tree preservation and landscaping, subject to compliance with the conditions."

The recommended conditions are supported and have been included in the recommendation.

4. CONSIDERATION

The reasons for refusal as outlined in the report dated 2 October 2007 have been listed, itemised and assessed as follows:

1. *The proposal would fail to satisfy Woollahra Local Environmental Plan 1995 Part 2, Clause 8(5) for the following reasons:*
 - *The proposed development would not protect or enhance the natural landscape by removing a contributory tree and providing insufficient setback from another*

contributory tree on the site. The proposal would be contrary to the objectives of Part 1- 2(2)(f)(i), (ii) and (iii).

- *The proposed design and finish of the boatshed would be aesthetically undesirable and detrimental to the foreshore. The proposal would be contrary to Part 3, Clause 22(4).*
- *The proposed retaining wall and elevated concrete terrace would not protect the natural attributes of the foreshore. The proposal would be contrary to Part 1 – 2(2)(h)(vi) and Part 3, Clause 19(2).*

The amended Arborists report concludes that since the time of writing the original Tree Assessment report, the contributory tree (Council Tree Ref. No.21) has deteriorated in health. The Arborists concludes that the tree can now been removed as its health and contribution no longer warrant its retention. Council’s Trees Officer has concurred with this conclusion.

The revised details depict limited excavation and works around the other contributory tree being (Council Tree Ref. No.23). The works around this contributory tree have been designed to ensure its future health and growth. Council’s Trees Officer has concurred with the amended Arborists report and has specified conditions that form part of the recommendation.

The amended boatshed design would comply with the design criteria specified by Sydney Harbour Foreshores and Waterways Area - Development Control Plan and [Woollahra Residential Development Control Plan 2003](#).

The sandstone block retaining wall that would be visible from the Harbour has been broken down into 2 smaller retaining walls with planting provided between the walls. This stepped and tiered effect to the landscape would more closely relate the walls to the existing landform and the planting provided in between would assist in maintaining the natural setting of the site as seen from the harbour and reducing the scale and bulk of the walls. The concrete terrace has also been reduced in size so it would be less visually prominent.

The amended design would satisfy the relevant objectives prescribed by the LEP.

2. *The proposed height, front and side setback and width of the garage, the driveway width and loss of on-street parking spaces would be detrimental to the streetscape. The proposal would be contrary to Woollahra Residential Development Control Plan 2003 Part 4.5 - C4.5.5, Figure 4.5.4 and C4.5.7.1; and Part 5.9 Objective O 5.9.3.*

Revised Part Compliance Table – WRDCP 2003

Garage	Original Submission	Amended Proposal	Control	Complies
Setbacks - meters				
North boundary	0m	1.065m	3m	NO
South boundary	1.5m	2.565m	3m	
Location of Garages and Car Parking Structures	Street front	Street front	Behind Front Setback	NO
Garage Frontage Width	78% (16.5m)	61% (13m)	30% (6.3m)	NO
Height of Garage or Car Parking Structure on High Side of the Street	>2.9m	2.9m	2.5m	NO
Minimum Access Driveway Width	14m	7m	3.5m – 6.0m	NO

The modified garage design has replaced the northern double garage with an open double carport and off-set the structure from both the northern and southern boundary. The garage and entry has also been setback from the front boundary and the driveway width reduced. Landscaping has also been introduced within the front setback.

The internal spaces within the garage are generous in width based on the controls prescribed by the RDCP. In order to comply with the minimum side setback control on the southern side, it is recommended that the garage be setback a minimum of 3m from its southern boundary and an increase in deep soil landscaping be provided on the southern side. This recommended revision would ensure additional landscaping and a view corridor is provided to the southern side of the garage without detrimentally impacting on the internal workings of the garage.

The double garage on the southern side would be setback an average of 3.85m from the front boundary whereas the RDCP prescribes a setback of 4m. The proposed front setback is reasonable in this circumstance and would satisfy the intent of the control.

The proposed portico to the front entry would be setback an average of 1m from the front boundary. The portico is an additional element that contributes to the bulk of the structure and incurs within the prescribed front setback. It is recommended that the portico be deleted and additional deep soil landscaping be provided at the frontage. The deleted portico would reduce the scale and bulk of the structure and ensure the entry averages a setback of 2.5m from the front boundary which would satisfy the objectives of the control.

The proposed double carport on the northern side would average a setback of 1m from the front boundary. A security grill is proposed to the carport to secure the car spaces. No details of the security grill have been provided. It is recommended that the security grill be an open and transparent element to allow views through the carport to the harbour and city skyline beyond. The proposed setback of the carport from the northern boundary would also allow for a view corridor towards the harbour and city skyline beyond.

Additional security grills have been provided to the north and south of the parking area along the front boundary which would be defined as a front fence under the RDCP. The height of the security grills is 2.7m and details of the grill have not been provided. It is recommended that these grills be reduced to 1.8m in height to match the fence height of development along this section of Wolseley Road and the design should be transparent.

The proposed driveway width has been reduced at the kerb and positioned so that maximum on and off-street parking is provided. No objection is raised against this revised design.

Subject to conditions, the proposed modified garage design would satisfy the relevant objectives and intent of the DCP and is acceptable in this instance.

- The proposed development would provide insufficient deep soil landscape to the frontage which would be detrimental to the streetscape. The proposal would be contrary to Woollahra Residential Development Control Plan 2003 Part 4.5 - C4.5.7.7.*

Revised Part Compliance Table – WRDCP 2003

	Original Submission	Amended Proposal	Control	Complies
Deep Soil Landscaping – Front Setback	5% (4m²)	29% (25m²)	40% (33m²)	NO

The area of deep soil landscaping within the front setback has been increased however is still deficient by 8m².

The recommended modifications to increase the setback of the garage from the southern boundary and deletion of the portico and replacement with additional deep soil landscaping would ensure the scheme complies with the criteria prescribed by the DCP.

4. *The proposed excavation to the front benched section of the site would not minimise impact on the existing landform, would not limit excavation or minimise cut of the site to relate the development to its topography. The proposal would be contrary to Woollahra Residential Development Control Plan 2003 Part 4.5 - C4.5.7.9 and Part 5.2 Objective O 5.2.4.*

No change is proposed to the extent of excavation to the front benched section of the site.

The proposed excavation would comply with the minimum excavation setback prescribed by the DCP.

Council's Development Engineer and the Geotechnical Engineer have raised no concerns with the proposed excavation. The proposed excavation would not result in any permanent or temporary detrimental impacts on the streetscape, adjoining structures or amenity of adjoining residents.

Having regard to recent approvals for excavation in Point Piper, the extent of excavation proposed on this site would be reasonable and would not result in a visible change to the topography of the site.

Subject to conditions, the proposal would satisfy the relevant criteria prescribed by the DCP.

5. *The proposed development would exceed the maximum Floor Space Ratio. The proposal would be contrary to Woollahra Residential Development Control Plan 2003 Part 5.2 – C5.2.9.*

Revised Part Compliance Table – WRDCP 2003

	Original Submission	Amended Proposal	Control	Complies
Floor Space Ratio	0.76:1 (1094m ²)	0.76:1 (1094m ²)	0.55:1 (794m ²)	NO

No change is proposed to the FSR for the development.

The subject site is flanked by residential flat buildings on its northern and southern sides. The front and rear alignment as well as the height of the proposed dwelling would be compatible with development immediately adjoining the site.

The proposed development has been setback sufficiently from its southern boundary to maximise views, solar access and privacy to the adjoining neighbour.

The development is well modulated and its form and scale would be compatible with the scale and form of development on the Point Piper peninsular.

Having regard to the minor amenity impacts associated with the development, the proposal is considered acceptable in this instance.

6. *The proposed development would exceed the maximum Building Footprint. The proposal would be contrary to Woollahra Residential Development Control Plan 2003 Part 5.2 – C5.2.7.*

Revised Part Compliance Table – WRDCP 2003

	Original Submission	Amended Proposal	Control	Complies
Building Footprint	40% (578m ²)	40% (578m ²)	30% (433m ²)	NO

No change is proposed to the building footprint of the development.

The deep soil landscaping provided on the site would comply with the criteria prescribed by the DCP and all significant and contributory trees on the site would be retained.

The non-compliance with the footprint control results from the proposed setback of the development on its northern side adjacent to a concrete panelled boundary fence. The proposed development would utilise the space next to this boundary wall which would have no impact on the amenity of the neighbours nor would this side of the development be visible from the public domain as it is located below ground level.

The visible setback of the development would comply with the criteria prescribed by the DCP and the proposal would ensure the objectives of the footprint control are satisfied.

7. *The proposal would result in the removal of a significant tree and provide insufficient setback from another significant tree that would be detrimental to landscape character of the area and result in the unnecessary reduction to the tree canopy. The proposal would be contrary to Woollahra Residential Development Control Plan 2003 Part 5.2 - C5.2.1, Objective O5.2.1; Part 5.3 – Objective O5.3.2; Figure 4.5.4 and C4.5.7.1; and Part 5.9 Objective O 5.9.3.*

As advised above, the revised plans and revised Arborists Report have addressed the issues raised and the healthy contributory trees would be retained.

Subject to conditions, the proposal would satisfy the relevant criteria prescribed by the DCP.

8. *The height of the chimneys is insufficient having regard to the proximity of adjoining structures. The proposal would be contrary to Woollahra Residential Development Control Plan 2003 Part 5.6 – C5.6.12.*

The applicant has not addressed this issue but it is recommended that a condition be applied that the Fire Place burn non-combustible fuel only and any discharge from the flu, namely heat, be discharged in a manner not to cause danger or nuisance to occupants of neighbouring buildings or members of the public in accordance with the provisions of AS1668.2-1991 Section 3.7.

Subject to conditions, the proposal would satisfy the relevant criteria prescribed by the DCP.

9. *The design of the boatshed would be detrimental to the scenic quality of the natural landscape and built environment as viewed from Sydney harbour. The proposal would be contrary to Woollahra Residential Development Control Plan 2003 Part 5.11 – C5.11.10 and 5.11.12; Objective O5.11.1.*

The amended boatshed design would comply with the design criteria prescribed by Sydney Harbour Foreshores and Waterways Area - Development Control Plan and **Woollahra Residential Development Control Plan 2003**.

10. *The proposed 4metre high sandstone block retaining wall to accommodate an elevated concrete terrace immediately forward of the gymnasium, would be highly visible from the harbour and would detrimentally impact on the natural landform and topography of the site. The proposal would fail to satisfy the provisions of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, Part 2 – 14 (a) and (d) and Part 3 - Division 2, 21(e) and O 5.11.3 and C5.11.1 and C5.11.20 of the Woollahra Residential Development Control Plan 2003.*

As advised above, the amended design would satisfy the relevant objectives prescribed by the SREP and RDCP.

11. *The proposal would not be in the public interest.*

The revised proposal is acceptable against the relevant considerations under s79C and would be in the public interest.

5. SUBMISSIONS

The replacement application (as defined by Clause 90 of the *Environmental Planning and Assessment Regulation 2000*) was not renotified under clause 5.1 of the DCP because, having considered clause 9 of the DCP, the replacement application is substantially the same development as the original proposal and considered to have no greater environmental impact upon neighbours.

6. CONCLUSION

The amended design has overcome the majority of the non-compliance with the local and state controls. Though some non-compliance with Council's control remain; in my opinion, they are not substantial enough to warrant refusal of the application.

Subject to conditions, the proposal would be a satisfactory outcome having regard to the context of the site and its surrounds.

7. RECOMMENDATION: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979

THAT the Council, as the consent authority, is of the opinion that the objections under *State Environmental Planning Policy No. 1 – Development Standards* for Height and Harbour Foreshore Building Line under Woollahra Local Environmental Plan 1995 are well founded. The Council is also of the opinion that strict compliance with the development standards are unreasonable and unnecessary in the circumstances of this case as the development will still uphold the objectives underlying the development standards;

AND

THAT the Council, as the consent authority, being satisfied that the objection under SEPP No. 1 is well founded and also being of the opinion that the granting of consent to DA 85/2007/1 is consistent with the aims of the Policy, grant development consent to DA 85/2007/1 for demolition of existing dwelling and construction of new three storey dwelling including swimming pool and landscaping on land at 88-90 Wolseley Road Point Piper, subject to the following conditions:

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 80 of the Environmental Planning & Assessment Act 1979 (“the *Act*”) and the provisions of the Environmental Planning and Assessment Regulation 2000 (“the *Regulation*”) such conditions being reasonable and relevant to the development as assessed pursuant to section 79C of the Act.

Standard Condition: A1

A.2 Definitions

Unless specified otherwise words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act* 1987 as in force at the date of consent.

Applicant means the applicant for this Consent.

Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or *AS/NZS* means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

BCA means the Building Code of Australia as published by the Australian Building Codes Board as in force at the date of issue of any *Construction Certificate*.

Council means Woollahra Municipal Council

Court means the Land and Environment Court

Local native plants means species of native plant endemic to Sydney’s eastern suburbs (see the brochure titled “Local Native Plants for Sydney’s Eastern Suburbs published by the Southern Sydney Regional Organisation of Councils).

Stormwater Drainage System means all works, facilities and documentation relating to:

- a. The collection of stormwater,
- b. The retention of stormwater,
- c. The reuse of stormwater,
- d. The detention of stormwater,
- e. The controlled release of stormwater; and
- f. Connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner Builder has the same meaning as in the *Home Building Act 1989*.

PCA means the *Principal Certifying Authority* under the *Act*.

Principal Contractor has the same meaning as in the *Act* or where a *principal contractor* has not been appointed by the *owner* of the land being developed *Principal Contractor* means the *owner* of the land being developed.

Professional Engineer has the same meaning as in the *BCA*.

Public Place has the same meaning as in the *Local Government Act 1993*.

Road has the same mean as in the *Roads Act 1993*.

SEE means the final version of the Statement of Environmental Effects lodged by the *Applicant*.

Site means the land being developed subject to this consent.

WLEP 1995 means *Woollahra Local Environmental Plan 1995*

Work for the purposes of this consent means:

- a. the use of land in connection with development,
- b. the subdivision of land,
- c. the erection of a building,
- d. the carrying out of any work,
- e. the use of any site crane, machine, article, material, or thing,
- f. the storage of waste, materials, site crane, machine, article, material, or thing,
- g. the demolition of a building,
- h. the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- i. the delivery to or removal from the *site* of any machine, article, material, or thing, or
- j. the occupation of the *site* by any person unless authorised by an *occupation certificate*.

Note: Interpretation of Conditions - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.
Standard Condition: A2

A.3 Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with the plans and supporting documents listed below as submitted by the Applicant and to which is affixed a Council stamp “Approved DA Plans” **unless modified by any following condition**. Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
0518-DA-01D, 02E, 03D to 11D inclusive	Architectural Plans	Ormsby Kerrins Freeman Architects	01/11/2007
LP 01C and 02C	Landscape Concept Plan	Spirit Level Designs	10/10/2007
N/A	Tree Condition Report & Management Plan	Botanics Tree Wise People	October 2006
N/A	Arborist Report	Botanics Tree Wise People	October 2006
WP102-H01 and 02 Issue 1 WP102-H03 Issue 1B	Stormwater Drainage Plan	Clapham Design Services P/L	09/02/2007 10/10/2007
20474Z2rpt	Geotechnical Investigation	Jeffery & Katauskas P/L	26/09/2006

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

Note: These plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)
Standard Condition: A5

A.4 Ancillary Aspect of the Development (s80A(2) of the Act)

The owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's “Specification for Roadworks, Drainage and Miscellaneous Works” dated January 2003 unless expressly provided otherwise by these conditions at the *owner's* expense.

Note: This condition does not affect the *principal contractor's* or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.
Standard Condition: A8

A.5 General Terms of Approval – Water Management Act 2000 (Maritime)

The following general terms of approval have been imposed by the NSW Maritime Authority:

1. The works to which these general terms of approval apply are not to commence until such time as NSW Maritime has issued a Part 3A Permit under the *Rivers and Foreshores Improvement Act 1948*.
2. The works to be carried out so that:
 - a. No materials are eroded, or likely to be eroded, deposited, or likely to be deposited, on the bed or shore or into the waters of Double Bay; and,

- b. No materials are likely to be carried by natural forces to the bed, shore or waters of Double Bay.
3. Any material that does enter the waters of Double Bay must be removed immediately.
4. In relation to conditions 2 and 3 above, a plan to manage erosion, sediment and other pollutants at the site, particularly for works on the foreshore level is to be prepared by a suitably qualified person(s). A suitable plan is to be submitted to NSW Maritime prior to a Part 3A Permit being issued.

Best practice methods shall be adopted for the on-site control of runoff, sediment and other pollutants during, and post, construction. Methods contained in the manual *Managing Urban Stormwater - Soils & Construction* issued by the New South Wales Department of Housing/Landcom in 2004 and any other relevant Council requirements.

5. The erosion, sediment and pollution controls shall be installed and stabilized before commencement of site works. This does not include the works associated with the construction of the appropriate controls.
6. The proposed system for erosion, sediment and pollution control is effectively maintained at or above design capacity for the duration of the works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
7. Any material that is to be stockpiled on site is to be stabilized to prevent erosion or dispersal of the material.
8. Landscaping is to be comprised of locally indigenous species, which represent the original plant communities that would have been found along the shoreline in the vicinity of the subject land.
9. Any trees that are removed during the works are to be replaced elsewhere on the site with a suitable replacement. Replacement trees are to be of locally indigenous species.
10. In relation to conditions 8 and 9 above, a suitable landscape plan is to be provided to NSW Maritime prior to a Part 3A Permit being issued. The plan is to identify the location and species of trees at the site; measures to protect them from damage during the works and details of additional landscaping to be carried out, including species, numbers and location.
11. The rocky inter-tidal area is to be fully protected for the duration of the works.
12. The foreshore beach is to be fully protected for the duration of the works. This includes preventing the storage of any materials, equipment, supplies, or waste receptacles within the inter-tidal area.
13. Limited information has been provided regarding access for the proposed works. If access is to be sought via the foreshore (i.e. barge) then a comprehensive construction management plan is to be prepared by suitably qualified individuals and submitted to the satisfaction of NSW Maritime. The plan should include, but not be limited to, measures that demonstrate:

- a) The protection of sensitive inter-tidal areas through access and egress of the barge and associated activities (such as propeller damage, lines and anchor points, length of stay etc).
 - b) The management of disturbed foreshore lands to avoid any sediment entering the waterway.
 - c) Siltation management through the implementation of suitable controls (such as floating boom and silt curtains)
 - d) Post construction works to restore and stabilize the inter-tidal area
 - e) Measures are in place to order the environmental performance of the construction management and what approach is to be used for responding to an issue.
14. No works are to be undertaken on land owned by NSW Maritime without the relevant approvals being granted by NSW Maritime.

Note: These conditions have not been imposed by Council but are required to be incorporate as conditions of development consent. Where there is any inconsistency between these general terms of approval and other conditions of this consent the more onerous requirement prevails.
Standard Condition: A17

A.6 Prescribed Conditions

Prescribed conditions in force under the *Act* and *Regulation* must be complied with.

Note: It is the responsibility of those acting with the benefit of this consent to comply with all prescribed conditions under the *Act* and the *Regulation*. Free access can be obtained to all NSW legislation at www.legislation.nsw.gov.au
Standard Condition: A30

B. Conditions which must be satisfied prior to the demolition of any building or construction

B.1 Construction Certificate required prior to any demolition

Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" pursuant to section 81A(2) of the Act. In such circumstance all conditions in Part C and Part D of this consent must be satisfied prior to any demolition work. This includes, but is not limited to, the issue of a Construction Certificate, appointment of a PCA and Notice of Commencement under the Act.

Note: See *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.
Standard Condition: B1

B.2 Recording of buildings with little or no heritage significance that are to be demolished:

A photographic archival record of the building and landscape elements to be demolished is to be submitted, to the satisfaction of Council's heritage officer, prior to the commencement of demolition work and prior to the issue of a Construction certificate.

The photographic archival recording is to be bound in an A4 format and is to include the following:

Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties.

Postcard sized photographs of:

- a. each elevation,
- b. each structure and landscape feature;
- c. internal or external details if nominated in Council's heritage officer's assessment
- d. report; and
- e. views to the subject property from each street and laneway or public space.

Each photograph to be mounted, labelled and cross-referenced in accordance with recognised archival recording practice.

One original coloured photographic set and a coloured photocopy are to be submitted to the satisfaction of Council's heritage officer prior to the commencement of demolition work and prior to the issue of a construction certificate. The original will be retained by Council and the coloured photocopy will be provided to the Woollahra Local History Library.

Standard Condition: B4

B.3 Establishment of Tree Protection Zones

To limit the potential for damage to trees to be retained, Tree Protection Zones are to be established around all trees to be retained on site. The Tree Protection Zones are to comply with the following requirements;

- (a) Tree Protection Zone areas

Council Reference:	Species	Location	Radius from Trunk (m)*
No.23	<i>Corymbia citriodora</i> Lemon-scented Gum tree	Rear – South boundary	4m
No.28	<i>Angophora costata</i> Sydney Red Gum	Rear – Centre	4m
No.33	<i>Angophora costata</i> Sydney Red Gum	Rear – Waterfront	3m
No.36	<i>Angophora costata</i> Sydney Red Gum	Rear – Waterfront	4m

***NB:** Where this condition relates to street trees and the fence cannot be placed at the specified radius, the fencing is to be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways and footpaths, is protected.

- (b) Tree Protection Zones are to be fenced with a 1.8 metre high chainmesh or weldmesh fence to minimise disturbance to existing ground conditions. The area within the fence must be mulched, to a depth of 75mm, irrigated and maintained for the duration of the construction works.
- (c) Trunk protection, to a maximum height permitted by the first branches, is to be installed around the trunks of the trees listed in the table below;

Council Reference:	Species	Location
No.23	<i>Corymbia citriodora</i> Lemon-scented Gum tree	Rear – South boundary

A padding material eg. Hessian or thick carpet underlay is to be wrapt around the trunk first. Harwood planks, 50x100mm and to the maximum possible length, are to be placed over the padding and around the trunk of the tree at 150mm centres. These planks are to be secured in place by 8 gauge wire at 300mm spacing.

- (d) A sign must be erected on each side of the fence indicating the existence of a Tree Protection Zone and providing the contact details of the site Arborist.
- (e) Existing soil levels must be maintained within Tree Protection Zones. Where excavation is undertaken adjacent such an area, the edge of the excavation must be stabilised, until such time as permanent measures are installed (eg. retaining wall etc) to prevent erosion within the Tree Protection Zone.
- (f) Sediment control measures are to be installed around all Tree Protection Zones to protect the existing soil levels.
- (g) The storage of materials, stockpiling, siting of works sheds, preparation of mixes, cleaning of tools or equipment is not permitted within Tree Protection Zones.

Site personnel must be made aware of all Tree Protection requirements, measures and any actions that constitute a breach of the Conditions of Development Consent with regard to tree protection on site during their site induction.

Standard Condition: B5

C. Conditions which must be satisfied prior to the issue of any construction certificate

C.1 Modification of details of the development (s80A(1)(g) of the Act)

The *approved plans* must be amended and the *Construction Certificate* plans and specification, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail:

- The Portico to the Level 5 entry is to be deleted. As a result of the removal of the Portico, the deep soil planting to the entry is to be increased by a total of 3m².
- Levels 4 and 5 of the garage/ancillary building are to be setback 3metres from the southern boundary. The setback of the carport on its northern side is to be retained. Additional deep soil landscaping is to be provided within the increased setback on its southern side.
- The security grill to the carport is to be an open structure with a minimum of 50% transparency in order to provide views to the harbour and city skyline beyond.
- The security grill to the south and north of the garage is to be limited to a maximum height of 1.8metres measured from the footpath level and is to be an open structure with a minimum transparency of 50% in order to provide views to the harbour and city skyline beyond.
- All references to the street drainage pit shown on Drawing No.WP102-H01 Sheet 1 of 3 Issue 1, drawn by Clapham Design Services Pty Ltd, dated 9.2.07 is to be deleted.
- No ground level changes or excavation works are permitted within the Critical Root Zone (CRZ) of the trees with Council Reference Nos.28, 33 and 36.
- A single incursion within the Critical Root Zone (CRZ) of the tree with Council reference No.23 is permitted to its north east side by the loggia on Level 1.
- The fireplaces within the dwelling are to burn non-combustible fuel only.

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the *Construction Certificate* drawings and specifications to address specific issues identified during assessment under section 79C of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any *Construction Certificate* subject to this condition unless the *Certifying Authority* is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any *Construction Certificate* that is inconsistent with this consent.
Standard Condition: C4

C.2 Payment of Security, Levies and Fees (S80A(6) & S94 of the Act, Section 608 of the Local Government Act 1993)

The person(s) with the benefit of this consent must pay the following long service levy, security, development levy, and fees prior to the issue of any *construction certificate*, *subdivision certificate* or *occupation certificate*, as will apply.

The *certifying authority* must not issue any *Part 4A Certificate* until provided with the original receipt(s) for the payment of all of the following levy, security, contributions, and fees. Specifically

- a. prior to the issue of a *construction certificate*, where a construction certificate is required; or
- b. prior to the issue of a *subdivision certificate*, where only a subdivision certificate is required; or
- c. prior to the issue of an *occupation certificate* in any other instance.

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986			
Long Service Levy Use Calculator: http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm	Contact LSL Corporation or use their online calculator	No	
SECURITY under section 80A(6) of the Environmental Planning and Assessment Act 1979			
Property Damage Security Deposit - Making good any damage caused to any property of the <i>Council</i> as a consequence of the doing of anything to which the consent relates.	\$83,900.00	No	T600
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2005 This plan may be inspected at Woollahra Council or downloaded from our website www.woollahra.nsw.gov.au .			
Development Levy	\$40,950.00 + Index Amount	Yes, quarterly	T94
INSPECTION FEES under section 608 of the Local Government Act 1993			
Public Road and Footpath Infrastructure Inspection Fee	\$363.25	No	T99
Security Administration Fee	\$163.00	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$125,376.25 Plus any relevant indexed amounts and long service levy		

Building & Construction Industry Long Service Payment

The Long Service Levy under Section 34 of the *Building & Construction Industry Long Service Payment Act, 1986*, must be paid and proof of payment provided to the *Certifying Authority* prior to the issue of any *Construction Certificate*.

Note: The Levy can be paid directly to the Long Services Payments Corporation or to Council. Further information can be obtained from the Long Service Payments Corporation's website <http://www.lspc.nsw.gov.au/> or by telephoning the Long Service Payments Corporation on 13 14 41.

How must the payments be made?

Payments must be made by:

- a. Cash deposit with Council,
- b. Credit card payment with Council, or
- c. Bank cheque made payable to Woollahra Municipal Council.

The payment of a security may be made by a bank guarantee where:

- a. the guarantee is by an Australian bank for the amount of the total outstanding contribution;
- b. the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first;
- c. the bank agrees to pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent; and
- d. the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

How will the section 94A levy be indexed?^[d13]

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2005 sets out the formula and index to be used in adjusting the s.94A levy.

Do you need HELP indexing the levy?

Please contact our customer service officers. Failure to correctly calculate the adjusted the development levy will delay the issue of any Part 4A Certificate and could void any Part 4A Certificate (construction certificate, subdivision certificate, or occupation certificate).

Deferred periodic payment of section 94A levy under the Woollahra Section 94A Development Contributions Plan 2005^[d14]

Where the applicant makes a written request supported by reasons for payment of the section 94A levy other than as required by clause 3.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- a. the reasons given;
- b. whether any prejudice will be caused to the community deriving benefit from the public facilities;
- c. whether any prejudice will be caused to the efficacy and operation of this plan; and
- d. whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

- a. the guarantee is by an Australian bank for the amount of the total outstanding contribution;
- b. the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first;

- c. the bank agrees to pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent; and
- d. the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any deferred or outstanding component of the section 94A levy will be adjusted in accordance with clause 3.13 of the plan. The applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

Standard Condition: C5

C.3 BASIX commitments

The *applicant* must submit to the *Certifying Authority BASIX Certificate* No.121450M with any application for a *Construction Certificate*.

Note: Where there is any proposed change in the BASIX commitments the applicant must submit of a new *BASIX Certificate* to the *Certifying Authority* and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (See: Clauses 145 and 146 of the *Regulation*) the applicant will be required to submit an amended development application to *Council* pursuant to section 96 of the Act.

All commitments in the *BASIX Certificate* must be shown on the *Construction Certificate* plans and specifications prior to the issue of any *Construction Certificate*.

Note: Clause 145(1)(a1) of the *Environmental Planning & Assessment Regulation* 2000 provides: "A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires,"

Standard Condition: C7

C.4 Road and Public Domain Works – Council approval required

This development consent does NOT give approval to works or structures over, on or under public roads or footpaths excluding minor works subject to separate Road Opening Permit.

Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage) within existing roads, must be submitted to and approved by *Council* under the *Roads Act* 1993, before the issue of any *Construction Certificate*.

Specific works include:

- Two full width vehicular crossings having a width of 3.5m including new layback and gutter in accordance with Council's standard drawing RF2. The proposed location is as shown on Architectural plans by Ormsby Kerrins Freeman Dwg. No.0518 DA02E dated 1/11/07.
- Reinstatement of footpath, kerb and gutter to match existing.

Access levels and grades to and within the development must match access levels and grades within the road approved under the *Roads Act* 1993.

All public domain works must comply with Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" dated January 2003 unless expressly provided otherwise by these conditions. This specification can be downloaded from www.woollahra.nsw.gov.au.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

Note: *Road* has the same meaning as in the *Roads Act 1993*.

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Road Act 1993* approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

Standard Condition: C13

C.5 Waste Storage - Single Dwelling House

The *Construction Certificate* plans and specifications required by clause 139 of the Regulation, must make provision for:

- a. a storage area for 1 x 120 litre general wastes bin, 1 x 240 litre green waste bin, 2 x recycling crates behind the building line or within non-habitable areas of the dwelling
- b. a path for wheeling bins between the waste and recycling storage area and the collection point free of steps and kerbs and having a maximum grade of 1:8.

Standard Condition: C15

C.6 Utility Services Generally

The *Construction Certificate* plans and specifications, required by clause 139 of the Regulation, must demonstrate that all utility services (telecommunications, electricity, gas, water and waste water) will be provided underground. All service ducts, pipes and conduits must be provided within the fabric of the building (excluding stormwater down pipes).

Where telecommunications and electricity are provided from existing poles in the road they must, in accordance with the relevant suppliers' requirements, be carried to the site underground directly to the main switch board within the fabric of the building.

Note: Where adequate provision has not been made for an electrical sub-station within the building, this may necessitate the lodgement of an application to amend this consent under section 96 of the Act to detail the location, landscape/streetscape impacts and compliance with AS2890 as applicable.

The location of service poles and substations required by the relevant suppliers must be shown upon the plans submitted with any *Construction Certificate* application together with a letter from each relevant supplier setting out their requirements.

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building unless expressly shown upon the approved DA plans. Details confirming compliance with this condition must be shown on the *Construction Certificate* plans and/or detailed within the *Construction Certificate* specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on the *Construction Certificate* plans.

Note: The intent of this condition is that the design quality of the development must not be compromised by cables, pipes, conduits, ducts, plant, equipment, electricity substations or the like placed such that they are

visible from any adjoining public place. They must be contained within the building unless shown otherwise by the approved development consent plans.

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Waters sewer main where they are not found by inspection to be UPVC or copper with continuously welded joints.

Note: This condition has been imposed to ensure that where private sewer pipes are old, may leak or may be subject to root invasion (whether from existing or proposed private or public landscaping) that existing cast iron, concrete, earthenware or terracotta pipes be replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Waters sewer main, such that clause 25(1) of WLEP 1995 be satisfied. Further, leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.
Standard Condition: C20

C.7 Soil and Water Management Plan – Submission & Approval

The *principal contractor* or *owner builder* must submit to the *Certifying Authority* a soil and water management plan complying with:

- a. “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- b. “*Managing Urban Stormwater - Soils and Construction*” published by the NSW Department of Housing 4th Edition” (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence. The *Certifying Authority* must be satisfied that the soil and water management plan complies with the publications above prior to issuing any *Construction Certificate*.

Note: This condition has been imposed to eliminate potential water pollution and dust nuisance.

Note: The International Erosion Control Association – Australasia <http://www.austieca.com.au/> lists consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans.

Note: The “*Do it Right On Site, Soil and Water Management for the Construction Industry*” publications can be down loaded free of charge from <http://www.woollahra.nsw.gov.au/>.

Note: Pursuant to clause 161(1)(a)(5) of the *Regulation* an *Accredited Certifier* may satisfied as to this matter.

Standard Condition: C25

C.8 Professional Engineering Details

The *Construction Certificate* plans and specifications, required by clause 139 of the Regulation, must include detailed *professional engineering* plans and/or specifications for all structural, electrical, hydraulic, hydro-geological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation.

Detailed professional engineering plans and/or specifications must be submitted to the *Certifying Authority* with the application for any *Construction Certificate*.

Note: This does not affect the right of the developer to seek staged Construction Certificates

Standard Condition: C36

C.9 Geotechnical and Hydrogeological Design, Certification & Monitoring

The *Construction Certificate* plans and specification required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation* must be accompanied by a *Geotechnical / Hydrogeological Monitoring Program* together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a *professional engineer*, who is suitably qualified and experienced in geotechnical and hydrogeological engineering. These details must be certified by the *professional engineer* to:

- a. Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure.
 - b. Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).
 - c. Provide foundation tanking prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time.
 - d. Provide tanking of all below ground structures to prevent the entry of all ground water such that they are fully tanked and no on-going dewatering of the site is required.
 - e. Provide a Geotechnical and Hydrogeological Monitoring Program that:
 - i. Will detect any settlement associated with temporary and permanent works and structures;
 - ii. Will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like);
 - iii. Will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity);
 - iv. Will detect groundwater changes calibrated against natural groundwater variations;
- details:
- the location and type of monitoring systems to be utilised;
 - the preset acceptable limits for peak particle velocity and ground water fluctuations;
 - recommended hold points to allow for the inspection and certification of geotechnical and hydro-geological measures by the professional engineer; and
 - a contingency plan.

Standard Condition: C40

C.10 Ground Anchors

This development consent does NOT give approval to works or structures over, on or under public roads or footpaths excluding minor works subject to separate Road Opening Permit.

The use of permanent ground anchors under Council land is not permitted.

Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.

If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the *Roads Act* 1993. Application forms and Council's "Rock Anchor Policy" are available from Council's web-site <http://www.woollahra.nsw.gov.au>. Approval may be granted subject to conditions of consent. Four weeks should be allowed for assessment.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

Note: *Road* has the same meaning as in the *Roads Act* 1993.

Note: Clause 20 of the *Roads (General) Regulation 2000* prohibits excavation in the vicinity of roads as follows: "**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act* 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.
Standard Condition: C41

C.11 Bicycle, Car and Commercial Parking Details

The *Construction Certificate* plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3:1993 *Parking Facilities - Bicycle Parking Facilities*, AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* and AS 2890.2:2002 – *Off-Street Parking: Commercial Vehicle Facilities* respectively.

Access levels and grades must comply with access levels and grade required by Council under the *Roads Act* 1993.

The *Certifying Authority* has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.
Standard Condition: C45

C.12 Stormwater Discharge to Harbour

The developer must obtain written approval from the NSW Maritime Authority to discharge stormwater from the subject property directly into Sydney Harbour.

Standard Condition: C50

C.13 Stormwater management plan

The *Construction Certificate* plans and specifications, required by clause 139 of the *Regulation*, must include a *Stormwater Management Plan* for the site.

The *Stormwater Management Plan* must detail:

- (a) general design in accordance with Clapham Design Services P/L Dwg No WP102-H01, 02 Issue 1 dated 9.2.07 and 03 Issue 1B dated 10.10.07. However the sheet 1 of the plans has not been amended to reflect the latest changes to the parking and access. As a result the proposal to reconstruct the street drainage pit is not required other than amended by this and other conditions;
- (b) the discharge of stormwater, by direct connection, to Sydney Harbour;
- (c) compliance the objectives and performance requirements of the BCA;
- (d) any rainwater tank required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*, and
- (e) general compliance with the Council's draft Development Control Plan Stormwater Drainage Management (draft version 1, public exhibition copy dated 23 August 2004), and

The *Stormwater Management Plan* must include the following specific requirements:

Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Institute of Engineers Australia publication, *Australian Rainfall and Run-off*, 1987 edition or most current version thereof.

It must include:

- All pipe layouts, dimensions, grades, lengths and material specification,
- Location of On-Site Detention,
- All invert levels reduced to Australian Height Datum (AHD),
- Location and dimensions of all drainage pits,
- Point and method of connection to Councils drainage infrastructure, and
- Overland flow paths over impervious areas.

Copies of certificates of title, showing the creation of private easements to drain water by gravity, if required.

Subsoil Drainage - Subsoil drainage details, clean out points, discharge point.

Note: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

Standard Condition: C51

C.14 Swimming and Spa Pools – Backwash

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must detail the connection of backwash to Sydney Waters sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: The plans must show the location of Sydney Waters sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: The discharge of backwash water to any stormwater system is water pollution and an offence under the *Protection of the Environment Operations Act 1997*. The connection of any backwash pipe to any stormwater system is an offence under the *Protection of the Environment Operations Act 1997*.
Standard Condition: C56

D. Conditions which must be satisfied prior to the commencement of any development work

D.1 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- a. that the work must be carried out in accordance with the requirements of the Building Code of Australia,
- b. in the case of residential building work for which *the Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a. to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4),
- or
- b. to the erection of a temporary building.

In this condition, a reference to the *BCA* is a reference to that code as in force on the date the application for the relevant construction certificate is made.

Note: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the Home Building Act 1989. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.
Standard Condition: D1

D.2 Dilapidation Reports for existing buildings

Dilapidation surveys must be conducted and dilapidation reports prepared by a *professional engineer* (structural) of all buildings on land whose title boundary abuts the site and of such further buildings located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration.

These properties must include (but is not limited to):

- 84-86 Wolseley Road, Point Piper
- 92-94 Wolseley Road, Point Piper

The dilapidation reports must be completed and submitted to *Council* with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by s81A(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Standard Condition: D4

D.3 Adjoining buildings founded on loose foundation materials

The *principal contractor* must ensure that a *professional engineer* determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The *professional engineer* (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the *principal contractor* must comply with any reasonable direction of the *professional engineer*.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.

Standard Condition: D6

D.4 Construction Management Plan – Approval & Implementation

A construction management plan must be submitted to and approved by Council's Development Engineer before the commencement of demolition, excavation or construction works.

The Plan must:-

a. describe the anticipated impact of the construction works on:

- i. local traffic routes,
- ii. pedestrian circulation adjacent to the building site,
- iii. the public place including crown land and community land,
- iv. and on-street parking in the local area.

b. describe the means proposed to:

- v. manage construction works to minimise such impacts,
- vi. provide for the standing of vehicles during construction, and
- vii. provide for the movement of trucks to and from the site, and deliveries to the site.

c. show the location of:

- viii. all proposed site sheds and any anticipated use of cranes and concrete pumps,
- ix. any areas of Council property on which it is proposed to install a Work (construction) Zone, and
- x. proposed structures such as hoardings, scaffolding or shoring, or to excavate.

d. describe the excavation impact on the area including

- xi Number and types of trucks to be used

- xii Time frame
- xiii Streets to be used
- xiv Routes to be taken
- xv Directions of travel
- xvi Truck storage areas
- xvii It is recommended that vehicle routes be shared
- xviii Excavation is to only be carried out outside peak and school hours between 9.30am to 2.30pm week days
- xix The CMP is to include both demolition and excavation works.

- e. **show the location** of all Tree Protection (Exclusion) Zones as required within the conditions of this development consent.

The Plan must make provision for all materials, plant, etc. to be stored within the development site at all times during construction. Structures or works on Council property such as hoardings, scaffolding, shoring or excavation need separate approval from Council under the Roads Act 1993. Standing of cranes and concrete pumps on Council property or the road will need consent on each occasion.

A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work

Note: Separate approval is required for any proposed site crane, hoarding, work zone, road opening, road closure or the standing of any plant (crane or pump or the like) in any public place.
Standard Condition: D9

D.5 Work (Construction) Zone – Approval & Implementation

A work zone is required for this development. The *principal contractor* or *owner* must apply for, obtained approval for, pay all fees for and implemented the required work zone before commencement of any work.

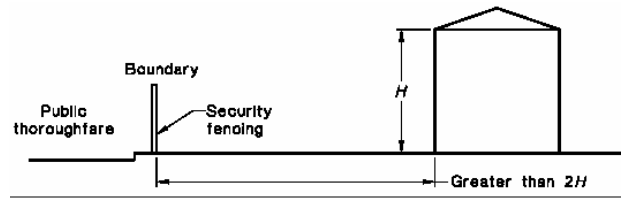
The *principal contractor* must pay all fees associated with the application and occupation and use of the road as a work zone. All Work Zone signs must have been erected by Council to permit enforcement of the work zone by Rangers and Police before commencement of any work. Signs are not erected until full payment of work zone fees.

Note: The *principal contractor* or *owner* must allow not less than four weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the Clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Traffic Authority under Section 50 of the *Transport Administration Act 1988*.

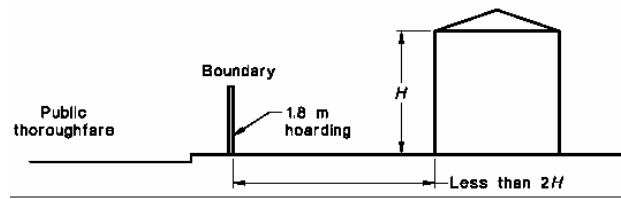
Note: The enforcement of the work zone is at the discretion of Council's Rangers and the NSW Police Service. The principal contractor must report any breach of the work zone to either Council or the NSW Police Service.
Standard Condition: D10

D.6 Security Fencing, Hoarding and Overhead Protection

Security fencing must be provided around the perimeter of the development site, including any additional precautionary measures taken to prevent unauthorised entry to the site at all times during the demolition, excavation and construction period. Security fencing must be the equivalent 1.8m high chain wire as specified in AS 1725.



Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless the least horizontal distance between the common boundary and the nearest parts of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8 m adjacent to the thoroughfare.

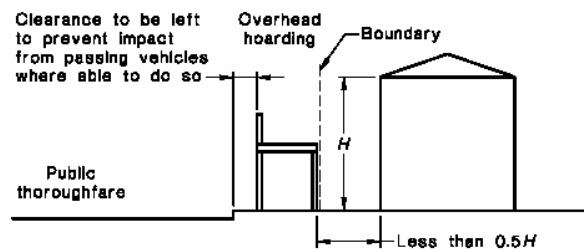


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either

- a. the vertical height above footpath level of the structure being demolished is less than 4.0 m; or
- b. the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must

- a. extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
- b. have a clear height above the footpath of not less than 2.1 m; terminate 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5 m above the platform surface; and
- c. together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



The *principal contractor* or *owner builder* must pay all fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

The *principal contractor* or *owner builder* must ensure that Overhead Protective Structures are installed and maintained in accordance with WorkCover NSW Code of Practice - Overhead Protective Structures, gazetted 16 December 1994, as commenced 20 March 1995. This can be downloaded from:

<http://www.workcover.nsw.gov.au/Publications/LawAndPolicy/CodesofPractice/ohheadprotstruucts.htm>.

Security fencing, hoarding and overhead protective structure must not obstruct access to utilities services including but not limited to man holes, pits, stop valves, fire hydrants or the like.

Note: The *principal contractor* or *owner* must allow not less than two (2) weeks from the date of making a hoarding application for determination. Any approval for a hoarding or overhead protection under the *Roads Act* 1993 will be subject to its own conditions and fees.
Standard Condition: D11

D.7 Site Signs

The *Principal Contractor* or *owner builder* must ensure that the sign required by clauses 98A and 227A of the *Regulation* is erected and maintained at all times.

“Erection of signs

1. For the purposes of section 80A (11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
2. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the principal certifying authority for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.
3. Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
4. This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
5. This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the *Act*, to comply with the technical provisions of the State’s building laws.”

Note: *PCA* and *principal contractors* must also ensure that signs required by this clause are erected and maintained (see clause 227A which imposes a penalty exceeding \$1,000).

Note: If *Council* is appointed as the *PCA* it will provide the sign to the *principal contractor* or *owner builder* who must ensure that the sign is erected and maintained as required by Clause 98A of the *Regulation*.
Standard Condition: D12

D.8 Toilet Facilities

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- a. must be a standard flushing toilet, and
- b. must be connected to a public sewer, or
- c. if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the council, or
- d. if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the council.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

In this condition:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the *Local Government (Approvals) Regulation 1993*.

approved by the council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

Note: This condition does not set aside the requirement to comply with Workcover NSW requirements.
Standard Condition: D13

D.9 Erosion and Sediment Controls – Installation

The *principal contractor* or *owner builder* must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a. The *Soil and Water Management Plan* if required under this consent;
- b. “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c. “*Managing Urban Stormwater - Soils and Construction*” published by the NSW Department of Housing 4th Edition” (‘The Blue Book’).

Where there is any conflict The Blue Book takes precedence.

Note: The International Erosion Control Association – Australasia (<http://www.austieca.com.au/>) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The “Do it Right On Site, Soil and Water Management for the Construction Industry” publications can be down loaded free of charge from www.woollahra.nsw.gov.au.

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the *Protection of the Environment Operations Act 1997* **without any further warning**. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”

Warning, irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.
Standard Condition: D14

D.10 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)

The erection of the building in accordance with this development consent must not be commenced until:

- a. a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited Certifier, and
- b. the person having the benefit of the development consent has:
 - i. appointed a principal certifying authority for the building work, and
 - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- b1. the principal certifying authority has, no later than 2 days before the building work commences:
 - i. notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - ii. notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- b2. the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - ii. notified the principal certifying authority of any such appointment, and
 - iii. unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - iv. given at least 2 days’ notice to the council of the person’s intention to commence the erection of the building.

Note: *building* has the same meaning as in section 4 of the *Act* and includes part of a building and any structure or part of a structure.

Note: *new building* has the same meaning as in section 109H of the *Act* and includes an altered portion of, or an extension to, an existing building.

Note: The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with

section 82A(2) of the *Act* (including the need for a *Construction Certificate*) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

Note: *Construction Certificate* Application, *PCA Service Agreement* and *Notice of Commencement* forms can be downloaded from Council's website www.woollahra.nsw.gov.au.

Note: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 81A(2) of the *Act*.
Standard Condition: D15

D.11 Subdivision of Land - Construction Certificate, Appointment of Principal Certifying Authority, and Notice of Commencement (s81A(3)&(4) of the Act)

Subdivision work in accordance with a development consent must not be commenced until:

- a. a *construction certificate* for the subdivision work has been issued by the consent authority, the council (if the council is not the consent authority) or an *accredited certifier*, and
- b. the person having the benefit of the development consent has appointed a *principal certifying authority* for the subdivision work, and
- b1. the *principal certifying authority* has, no later than 2 days before the subdivision work commences:
 - i. notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - ii. notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the subdivision work, and
 - iii. the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.

Note: ONLY COUNCIL CAN ISSUE A CONSTRUCTION CERTIFICATE FOR SUBDIVISION WORK.
ONLY COUNCIL CAN ACT AS THE PCA FOR SUBDIVISION WORK.

Note: *Construction Certificate* Application, *PCA Service Agreement* and *Notice of Commencement* forms can be downloaded from Council's website <http://www.woollahra.nsw.gov.au>

Note: It is an offence for any person to carry out subdivision work in breach of this condition and in breach of section 81A(4) of the *Act*.

Note: A plan of subdivision cannot be registered under the *Conveyancing Act 1919* unless a subdivision certificate has been issued for the subdivision.
Standard Condition: D16

D.12 Notification of Home Building Act 1989 requirements

- a. For the purposes of section 80A (11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.
- b. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the

work relates (not being the council) has given the council written notice of the following information:

- i. in the case of work for which a *principal contractor* is required to be appointed:
 - the name and licence number of the principal contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that Act,
- ii. in the case of work to be done by an owner-builder:
 - the name of the owner-builder, and
 - if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- c. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- d. This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws.

Standard Condition: D17

D.13 Establishment of boundary location, building location and datum

Prior to the commencement of any work the principal contractor or owner builder must ensure that a surveyor registered under the *Surveying Act 2002* sets out:

- a. the boundaries of the *site* by permanent marks (including permanent recovery points);
- b. the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum ("AHD") in compliance with the approved plans;
- c. establishes a permanent datum point (bench mark) within the boundaries of the *site* relative to AHD; and
- d. provides a copy of a survey report by the registered surveyor detailing, the title boundaries, pegs/profiles, recovery points and bench mark locations as established pursuant to this condition to the PCA.

Note: Where the *principal contractor* or *owner builder* notes any discrepancy between the approved development consent and the *Construction Certificate*, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the *principal contractor* or *owner builder* should not proceed until satisfied that the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.

Note: On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks should be considered by the registered surveyor.

Standard Condition: D18

E. Conditions which must be satisfied during any development work

E.1 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

For the purposes of section 80A (11) of the Act, the following condition is prescribed in relation to a development consent for development that involves any building work:

- a. that the work must be carried out in accordance with the requirements of the Building Code of Australia,
- b. in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a. to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the Regulation, or
- b. to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

Standard Condition: E1

E.2 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—1991: The Demolition of Structures, published by Standards Australia, and as in force at 1 July 1993.

Standard Condition: E2

E.3 Compliance with Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved construction management plan.

All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on-site at all times and made available to the *PCA* or *Council* on request.

Note: Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.

Standard Condition: E3

E.4 Requirement to notify about new evidence

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifying Authority.

Standard Condition: E4

E.5 Critical Stage Inspections

Critical stage inspections must be called for by the *principal contractor* or *owner builder* as required by the PCA, any PCA service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*. *critical stage inspections* means the inspections prescribed by the *Regulations* for the purposes of section 109E(3)(d) of the *Act* or as required by the PCA and any PCA Service Agreement.

Note: The PCA may require inspections beyond mandatory critical stage inspections in order that the PCA be satisfied that work is proceeding in accordance with this consent.

Note: The PCA may, in addition to inspections, require the submission of *Compliance Certificates*, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.
Standard Condition: E5

E.6 Hours of Work –Amenity of the neighbourhood

- a. No *work* must take place on any Sunday or public holiday,
- b. No *work* must take place before 7am or after 5pm any weekday,
- c. No *work* must take place before 7am or after 1pm any Saturday, and
- d. No piling, piling, cutting, boring, drilling, rock breaking, rock sawing, jack hammering or bulk excavation of land or loading of material to or from trucks must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday.
- e. No rock excavation being cutting, boring, drilling, breaking, sawing, jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

This condition has been imposed to mitigate the impact of work upon the amenity of the neighbourhood. Impact of work includes, but is not limited to, noise, vibration, dust, odour, traffic and parking impacts.

Note: The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.

Note: Each and every breach of this condition by any person may be subject to separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RTA and Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.

Note: Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2000*.

Note: EPA Guidelines can be downloaded from <http://www.epa.nsw.gov.au/noise/nglg.htm>.

Note: see http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf
Standard Condition: E6

E.7 Maintenance of Vehicular and Pedestrian Safety and Access

The *principal contractor* or *owner builder* and any other person acting with the benefit of this consent must:

- a. Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b. Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c. Not use the road or footway for any *work*.
- d. Keep the road and footway in good repair free of any trip hazard or obstruction.
- e. Not stand any plant and equipment upon the road or footway.

This condition does not apply to the extent that a permit or approval exists under the section 73 of the *Road Transport (Safety and Traffic Management) Act 1999*, section 138 of the *Roads Act 1993* or section 94 of the *Local Government Act 1993* except that at all time compliance is required with:

- a. Australian Standard AS 1742 (Set) Manual of uniform traffic control devices and all relevant parts of this set of standards.
- b. Australian Road Rules to the extent they are adopted under the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999*.

Note: Section 73 of the *Road Transport (Safety and Traffic Management) Act 1999* allows the Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose. Any road closure requires Police approval.

Note: Section 138 of the *Roads Act 1993* provides that a person must not:

- (a) erect a structure or carry out a work in, on or over a public road, or
- (b) dig up or disturb the surface of a public road, or
- (c) remove or interfere with a structure, work or tree on a public road, or
- (d) pump water into a public road from any land adjoining the road, or
- (e) connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

Note: Section 68 of the *Local Government Act 1993* provides that a person may carry out certain activities only with the prior approval of the council including:

Part C Management of Waste:

- “1. For fee or reward, transport waste over or under a public place
2. Place waste in a public place
3. Place a waste storage container in a public place.”

Part E Public roads:

- “1. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
2. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.”

Any work in, on or over the Road or Footway requires *Council* Approval and in the case of classified roads the NSW Roads and Traffic Authority. Road includes that portion of the road uses as a footway.
Standard Condition: E7

E.8 Tree Preservation

All persons must comply with Council’s *Tree Preservation Order* (“the TPO”), other than where varied by this consent. The order applies to any tree, with a height greater than 5 metres or a diameter spread of branches greater than 3 metres, is subject to Council’s Tree Preservation Order unless, exempted by specific provisions. Works to be carried out within a 5 metre radius of any tree, subject to the Tree Preservation Order, require the prior written consent of Council.

General Protection Requirements:

- a) There must be no excavation or *work* within the required Tree Protection Zone(s). The Tree Protection Zone(s) must be maintained during all *development work*.
- b) Where excavation encounters tree roots with a diameter exceeding 40mm excavation must cease. The *principal contractor* must procure an inspection of the tree roots exposed by a qualified arborist. Excavation must only recommence with the implementation of the recommendations of the qualified arborist or where specific instructions are given by Council's Tree Management Officer in strict accordance with such Council instructions.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the qualified arborist or where specific instructions are given by Council's Tree Management Officer in strict accordance with such Council instructions.

Note: Trees must be pruned in accordance with Australian Standard AS 4373 – 2007 “Pruning of Amenity Trees” and Workcover NSW Code of Practice Amenity Tree Industry 1998.
Standard Condition: E8

E.9 Tree Preservation & Approved Landscaping Works

All landscape works must be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

Trees on Private Land

- a) The following trees must be retained:

Council Reference	Species	Location	Dimension (Metres)
No.23	<i>Corymbia citriodora</i> Lemon-scented Gum tree	Rear – South boundary	16 x 14
No.28	<i>Angophora costata</i> Sydney Red Gum	Rear – Centre	7 x 8
No.33	<i>Angophora costata</i> Sydney Red Gum	Rear – Waterfront	6 x 5
No.36	<i>Angophora costata</i> Sydney Red Gum	Rear – Waterfront	14 x 10

- b) The following trees may be removed:

Council Reference	Species	Location	Dimension (Metres)
No.1	<i>Tristaniopsis laurina</i> Water gum	Front – Council verge	4 x 3
No.2	<i>Backhousia citriodora</i> Lemon-scented Backhousia	Front boundary	5 x 3
No.3	<i>Backhousia citriodora</i> Lemon-scented Backhousia	Front boundary	4 x 2
No.4	<i>Backhousia citriodora</i> Lemon-scented Backhousia	Front boundary	5 x 2
No.5	<i>Syagrus romanzoffianum</i> Cocos Palm	Side – North boundary	3 x 1
No.6	<i>Archontophoenix cunninghamiana</i> Bangalow Palm	Side – North boundary	4 x 2
No.7	<i>Glochidion ferdinandii</i> Cheese Tree	Side – North boundary	7 x 3
No.8	<i>Syzygium sp.</i> Lillypilly	Rear – Adj to residence	8 x 4
No.9	<i>Syzygium sp.</i> Lillypilly	Rear – Adj to residence	3 x 3
No.10	<i>Eucalyptus spp.</i>	Rear – Adj to residence	3 x 3

No.11	<i>Pittosporum undulatum</i> Native Daphne	Rear	7 x 3
No.12	<i>Glochidion ferdinandii</i> Cheese Tree	Rear	7 x 3
No.13	<i>Glochidion ferdinandii</i> Cheese Tree	Rear	7 x 3
No.14	<i>Corymbia citriodora</i> Lemon-scented Gum tree	Rear	6 x 4
No.15	<i>Glochidion ferdinandii</i> Cheese Tree	Rear	6 x 2
No.16	<i>Eucalyptus scorparia</i> Willow Gum	Rear	7 x 2
No.17	<i>Olea europea var. africana</i> African Olive	Rear	5 x 2
No.18	<i>Pittosporum undulatum</i> Native Daphne	Rear	5 x 2
No.19	<i>Lophostemon confertus</i> Brush Box	Rear	9 x 3
No.20	<i>Phoenix canariensis</i> Canary Island Date Palm	Rear	2 x 3
No.21	<i>Angophora costata</i> Sydney Red Gum	Rear	10 x 6
No.22	<i>Phoenix canariensis</i> Canary Island Date Palm	Rear	2 x 3
No.24	<i>Eucalyptus scorparia</i> Willow Gum	Rear	7 x 5
No.25	<i>Glochidion ferdinandii</i> Cheese Tree	Rear	5 x 3
No.26	<i>Glochidion ferdinandii</i> Cheese Tree	Rear	7 x 4
No.27	<i>Glochidion ferdinandii</i> Cheese Tree	Rear	6 x 3
No.29	<i>Pittosporum undulatum</i> Native Daphne	Rear	4 x 3
No.30	<i>Olea europea var. africana</i> African Olive	Rear	4 x 3
No.31	<i>Glochidion ferdinandii</i> Cheese Tree	Rear	4 x 3
No.32	<i>Syagrus romanzoffianum</i> Cocos Palm	Rear	18 x 2
No.35	<i>Glochidion ferdinandii</i> Cheese Tree	Rear	4 x 4

Note: The tree trees that may be removed should appear coloured red on the construction certificate plans.

c) No excavation or level changes within tree Critical Root Zone (CRZ)

To allow for the preservation of a viable root zone, excavation work and level changes must not be undertaken within the specified radius of the trunks of the following trees. Beyond this radius, excavation is permissible only after root pruning by hand along the perimeter line of such works has been carried out.

Council Reference	Species	Location	Radius from Trunk(m)
No.23	<i>Corymbia citriodora</i> Lemon-scented Gum tree	Rear – South boundary	3.5m
No.28	<i>Angophora costata</i> Sydney Red Gum	Rear – Centre	3m
No.33	<i>Angophora costata</i> Sydney Red Gum	Rear – Waterfront	2m
No.36	<i>Angophora costata</i> Sydney Red Gum	Rear – Waterfront	3m

d) Hand excavation within tree root zones (C10b)

To prevent damage to roots and compaction within the root zone, excavation undertaken within the specified radius from the trunks of the following trees must be hand dug. Small hand tools only are to be utilised, mattocks and similar digging tools are not be used within these areas. No root with a diameter equal to or in excess of 30mm is to be cut unless approved, in writing, by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 4 or recognised equivalent).

All root pruning must be undertaken in accordance with the Australian Standard 4373 Pruning of amenity trees and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 4 or recognised equivalent)

Beyond this radius, mechanical excavation is permitted, when root pruning by hand along the perimeter line of such works is completed.

Council Reference:	Species	Location	Radius from Trunk (m)
No.23	<i>Corymbia citriodora</i> Lemon-scented Gum tree	Rear – South boundary	4m
No.28	<i>Angophora costata</i> Sydney Red Gum	Rear – Centre	4m
No.33	<i>Angophora costata</i> Sydney Red Gum	Rear – Waterfront	3m
No.36	<i>Angophora costata</i> Sydney Red Gum	Rear – Waterfront	4m

Note: The tree/s required to be pruned should appear coloured blue on the construction certificate plans.

Note: Water Restrictions take precedence over this condition.

Note: Having regard to water restrictions manual hosing may be necessary.

Standard Condition: E9

E.10 Maintenance of Environmental Controls

The *principal contractor* or *owner builder* must ensure that the following monitoring, measures and controls are maintained:

- (a) Erosion and sediment controls,
- (b) Dust controls,
- (c) Dewatering discharges,
- (d) Noise controls;
- (e) Vibration monitoring and controls;
- (f) Ablutions

Note 1: See http://www.epa.nsw.gov.au/small_business/builders.htm for additional information.

Standard Condition: E11

E.11 Compliance with Geotechnical/Hydrogeological Monitoring Program

Excavation must be undertaken in accordance with the recommendations of the *Geotechnical / Hydrogeological Monitoring Program* and any oral or written direction of the supervising *professional engineer*.

The *principal contractor* and any sub-contractor must strictly follow the *Geotechnical / Hydrogeological Monitoring Program* for the development including, but not limited to;

- a) the location and type of monitoring systems to be utilised;
- b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the *professional engineer*; and
- c) the contingency plan.

Note: The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the Development Application to be appointed as the *professional engineer* supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.

Standard Condition: E12

E.12 Support of adjoining land and buildings

A person must not do anything on or in relation to the *site* (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).

For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.

Note: This condition 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 considered necessary upon any adjoining or supported land by any person the *principal contractor* or *owner builder* must obtain:

- a) the consent of the owners of such adjoining or supported land to trespass or encroach, or
- b) an access order under the Access to Neighbouring Land Act 2000, or
- c) an easement under section 88K of the *Conveyancing Act 1919*, or
- d) an easement under section 40 of the *Land & Environment Court Act 1979* as appropriate.

Note: 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).

Note: Clause 20 of the *Roads (General) Regulation 2000* prohibits excavation in the vicinity of roads as follows: “**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road.” Separate approval is required under the Roads Act 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Note: The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, crown land under Council’s care control or management, or any community or operational land as defined by the *Local Government Act 1993*.
Standard Condition: E13

E.13 Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a *professional engineer* with expertise and experience in geotechnical engineering, between any potential source of vibration and any *building* identified by the *professional engineer* as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the *professional engineer* as the maximum acceptable peak particle velocity an audible alarm must activate such that the *principal contractor* and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the *professional engineer* and any further work recommencing the event must be recorded and the cause of the event identified and documented by the *professional engineer*.

Where the event requires, in the opinion of the *professional engineer*, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the *professional engineer* as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the *professional engineer* to the *principal contractor* and any sub-contractor clearly setting out required work practice.

The *principal contractor* and any sub-contractor must comply with all work directions, verbal or written, given by the *professional engineer*.

A copy of any written direction required by this condition must be provided to the *Principal Certifying Authority* within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the *professional engineer*, *principal contractor* and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the *professional engineer* to prevent any further damage and restore support to the *supported land*.

Note: *Professional engineer* has the same mean as in Clause A1.1 of the BCA.

Note: *Building* has the same meaning as in section 4 of the Act i.e. “**building** includes part of a building and any structure or part of a structure”.

Note: *Supported land* has the same meaning as in section 88K of the Conveyancing Act 1919.
Standard Condition: E14

E.14 Erosion and Sediment Controls – Maintenance

The *principal contractor* or *owner builder* must maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan required under this consent;
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) “*Managing Urban Stormwater - Soils and Construction*” published by the NSW Department of Housing 4th Edition (“*The Blue Book*”).

Where there is any conflict *The Blue Book* takes precedence.



Note 1: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note 2: Section 257 of the Protection of the Environment Operations Act 1997 provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”. **Warning**, irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.
Standard Condition: E15

E.15 Disposal of site water during construction

The principal contractor or owner builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from *Council* under section 138(1)(d) of the *Roads Act 1993*;
- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act 1997*, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water;
- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

Note: This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.

Standard Condition: E17

E.16 Site Cranes

Site Crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.

Cranes must not swing or hoist over any public place unless the *principal contractor* or *owner builder* have the relevant approval under the *Local Government Act 1993*, *Crown Lands Act 1989* or *Roads Act 1993*.

The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the *Civil Aviation Act 1988* (Cth).

No illuminated sign(s) must be erected upon or displayed upon any site crane.

Note: Where it is proposed to swing a crane over a public place the *principal contractor* or *owner builder* must make a separate application to Council under section 68 of the *Local Government Act 1993* and obtain activity approval from Council prior to swinging or hoisting over the public place.

Note: Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the *principal contractor* or *owner builder* must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land & Environment Court Act 1979* as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.

Standard Condition: E19

E.17 Check Surveys - boundary location, building location, building height and stormwater drainage system relative to Australian Height Datum

The *Principal Contractor* or *Owner Builder* must ensure that a surveyor registered under the *Surveying Act 2002* carries out check surveys and provides survey certificates confirming the location of the building(s) and the stormwater drainage system relative to the boundaries of the *site* and that the height of buildings and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.

The *Principal Contractor* or *Owner Builder* must ensure that work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the *PCA*'s satisfaction:

- a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level;
- b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey;
- c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof;
- d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structures, swimming pool or spa pool or the like;
- e) Driveway transitions and crest thresholds prior to pavement of driveways;
- f) Stormwater Drainage Systems prior to or post construction confirming location, height and capacity of works.

Note: This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent.
Standard Condition: E20

E.18 Placement and use of Skip Bins

The *principal contractor* or *owner builder* must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 94 of the *Local Government Act 1993* to place the waste storage container in a public place, and
- b) Where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules to the extent they are adopted under the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999*.

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.
Standard Condition: E21

E.19 Prohibition of burning

There must be no burning of any waste or other materials. The burning of CCA (copper chrome arsenate) or PCP (pentachlorophenol) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.

Note: Pursuant to the *Protection of the Environment Operations (Control of Burning) Regulation 2000* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.
Standard Condition: E22

E.20 Dust Mitigation

Dust mitigation must be implemented in accordance with “*Dust Control - Do it right on site*” published by the Southern Sydney Regional Organisation of Councils.

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Note 1: “*Dust Control - Do it right on site*” can be down loaded free of charge from Council’s web site www.woollahra.nsw.gov.au or obtained from Council’s office.

Note 2: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.workcover.nsw.gov.au and www.epa.nsw.gov.au . Other specific condition and advice may apply.

Note 3: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.
Standard Condition: E23

E.21 Compliance with Council’s Specification for Roadworks, Drainage and Miscellaneous Works Road works and work within the Road and Footway

All work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the *development* to which this consent relates must comply with Council’s *Specification for Roadworks, Drainage and Miscellaneous Works* dated January 2003.

The *owner, principal contractor or owner builder* must meet all costs associated with such works.

This condition does not set aside the need to obtain relevant approvals under the *Roads Act 1993* or *Local Government Act 1993* for works within Roads and other public places.

Note: A copy of Council’s “*Specification for Roadworks, Drainage and Miscellaneous Works*” can be down loaded free of charge from Council’s website www.woollahra.nsw.gov.au
Standard Condition: E24

E.22 Swimming and Spa Pools – Temporary Child Resistant Barriers and other matters

Temporary child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* where any swimming pool or spa pool as defined by the *Swimming Pools Act 1992* contains more than 300mm in depth of water at any time. Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* as soon as practical.

Backwash and any temporary dewatering from any swimming pool or spa pool as defined by the *Swimming Pools Act 1992* must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: This condition does not prevent Council from issuing an order pursuant to section 23 of the *Swimming Pool Act 1992* or taking such further action as necessary for a breach of this condition or the *Swimming Pools Act 1992*.
Standard Condition: E26

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

F.1 Occupation Certificate (section 109M of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 109H (4) of the *Act*) unless an occupation certificate has been issued in relation to the building or part.

Note: New building includes an altered portion of, or an extension to, an existing building.
Standard Condition: F1

F.2 Amenity Landscaping

The *owner* or *principal contractor* must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

Note: This condition has been imposed to ensure that the environmental impacts of the development are mitigated by approved landscaping prior to any occupation of the development.
Standard Condition: F6

F.3 Commissioning and Certification of Systems and Works

The *principal contractor* or *owner builder* must submit to the satisfaction of the *PCA* works-as-executed (“WAE”) plans, *Compliance Certificates* and evidence of suitability in accordance with Part A2.2 of the *BCA* confirming that the *works*, as executed and as detailed, comply with the requirement of this consent, the *Act*, the *Regulations*, any relevant *construction certificate*, the *BCA* and relevant *Australian Standards*.

Works-as-executed (“WAE”) plans, *Compliance Certificates* and evidence of suitability in accordance with Part A2.2 of the *BCA* must including but may not be limited to:

- a. Certification from the supervising professional engineer that the requirement of the Geotechnical / Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b. All flood protection measures.
- c. All stormwater drainage systems.
- d. All mechanical ventilation systems.
- e. All hydraulic systems.
- f. All structural work.
- g. All acoustic attenuation work.
- h. All waterproofing.
- i. Such further matters as the *Principal Certifying Authority* may require.

Note: This condition has been imposed to ensure that systems and works as completed meet *development standards* as defined by the *Act*, comply with the *BCA*, comply with this consent and so that a public record of works as executed is maintained.

Note: The *PCA* may require any number of *WAE* plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, *Development Standards*, *BCA*, and relevant *Australia Standards*. As a minimum *WAE* plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

Note: The *PCA* must submit to Council, with any *Occupation Certificate*, copies of works-as-executed (“*WAE*”) plans, *Compliance Certificates* and evidence of suitability in accordance with Part A2.2 of the *BCA* upon which the *PCA* has relied in issuing any *Occupation Certificate*.
Standard Condition: F7

F.4 Street Numbering

The development must be provided with street and sole occupancy unit numbers determined by Council. This condition has been imposed to ensure that emergency services, utility services, and the general public are able to clearly and readily locate any property. Further, this condition has been imposed to protect the integrity of street numbering and land information.

Note: Applications for the allocation of street and sole occupancy unit numbers should be made together with any application for a strata certificate or Torrens or community title subdivision certificate. Council will determine at its discretion in accordance with its policy street numbers and street addresses that best suit the public interest.
Standard Condition: F11

F.5 Letter Box(es)

All letter boxes must be constructed and located in accordance with AS/NZS 4253:1994 Mailboxes and to Australia Post’s satisfaction.

Note: This condition has been imposed to ensure that mail can be delivered to occupiers of the site.
Standard Condition: F12

F.6 Swimming and Spa Pools – Permanent Child Resistant Barriers and other matters

Prior to any occupation or use of the development and prior to filling any swimming pool as defined by the *Swimming Pool Act 1992*:

- a. Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992*.
- b. The *Principal Contractor* or *owner* must apply for and obtain a Compliance Certificate under section 24 of the *Swimming Pools Act 1992*.
- c. Public Pools must comply with the NSW Health Public Swimming Pool and Spa Pool Guidelines in force at that time and private pools are encouraged to comply with the same standards as applicable.
- d. Water recirculation and filtration systems must be installed in compliance with AS 1926.3-2003: *Swimming pool safety - Water recirculation and filtration systems*.

Backwash must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

- e. Water recirculation and filtration systems must be connected to the electricity supply by a timer that limits the systems operation such that it does not operate:

- f. before 8 am or after 8 pm on any Sunday or public holiday, or before 7 am or after 8 pm on any other day.

Note: The NSW Health Public Swimming Pool and Spa Pool Guidelines can be down loaded free from:
<http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>
Standard Condition: F13

G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

G.1 Land Subdivision Certificate (s109J of the Act)

A plan of subdivision cannot be registered under the Conveyancing Act 1919 unless a subdivision certificate has been issued for the subdivision. The person with the benefit of this consent must submit to Council an application for a Subdivision Certificate demonstrating compliance with section 109J of the Act.

No Subdivision Certificate must be issued until the linen plan of subdivision detailing the provision of all required easements and right of ways or the like to be registered upon the title of each lot to be so benefited or burdened has been submitted to Council.

Standard Condition: G1

G.2 Electricity Substations – Dedication as road and/or easements for access

If an electricity substation, is required on the site the owner must dedicate to the appropriate energy authority (to its satisfaction), free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors are not to intrude onto the public road (footway or road pavement).

Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the *Principal Certifying Authority* prior to issue of the Construction Certificate detailing energy authority requirements.

The Accredited Certifier must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

Where an electricity substation is provided on the site adjoining the road boundary, the area within which the electricity substation is located must be dedicated as public road. Where access is required across the site to access an electricity substation an easement for access across the site from the public place must be created upon the linen plans burdening the subject site and benefiting the Crown in right of New South Wales and any Statutory Corporation requiring access to the electricity substation.

Standard Condition: G4

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))

H.1 Fulfillment of BASIX commitments – Clause 154B of the Regulation

All BASIX commitments must be effected in accordance with the BASIX Certificate No.121450M.

Note: Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A *certifying authority* must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."
Standard Condition: H7

H.2 Landscaping

All landscape work including all planting must be completed by the *principal contractor* or *owner* in compliance with the approved landscape plan, arborist report, transplant method statement and tree management plan. The *principal contractor* or *owner* must provide to PCA a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works as completed comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the *Final Occupation Certificate*.
Standard Condition: H9

H.3 Removal of Ancillary Works and Structures

The *principal contractor* or *owner* must remove from the land and any adjoining public place:

- a. The site sign;
- b. Ablutions;
- c. Hoarding;
- d. Scaffolding; and
- e. Waste materials, matter, article or thing.

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the *Final Occupation Certificate*.
Standard Condition: H12

H.4 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in compliance with Council's "Specification for Roadworks, Drainage and Miscellaneous Works" dated January 2003 unless expressly provided otherwise by these conditions at the *principal contractor's* or *owner's* expense:

- a. stormwater pipes, pits and connections to public stormwater systems within the *road*;
- b. driveways and vehicular crossings within the *road*;
- c. removal of redundant driveways and vehicular crossings;
- d. new footpaths within the *road*;
- e. new or replacement street trees;
- f. new footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.
- g. new or reinstated kerb and guttering within the *road*; and

- h. new or reinstated road surface pavement within the *road*.

Note: Security held by Council pursuant to section 80A(6) of the Act will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the *Final Occupation Certificate* to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.
Standard Condition: H13

I. Conditions which must be satisfied during the ongoing use of the development

I.1 Maintenance of BASIX commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No.121450M.

Note: This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.
Standard Condition: I7

I.2 Maintenance of Landscaping

All landscaping must be maintained in general accordance with this consent.

This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.

Reason: This condition has been imposed to ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.

Note: This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality. Owners should have regard to the amenity impact of trees upon the site and neighbouring land. Further, drought proof vegetation being native species endemic to the immediate locality is encouraged. Suggested native species endemic to the immediate locality are listed in the Brochure Titled "Local Native Plants for Sydney's Eastern Suburbs" published by Woollahra, Waverley, Randwick and Botany Bay Councils.
Standard Condition: I8

I.3 Swimming and Spa Pools – Maintenance

Swimming and Spa Pools must be maintained:

- a. in compliance with the *Swimming Pools Act* 1992 with regard to the provision of child-resistant barriers and resuscitation signs;
- b. in compliance with the NSW Health "Public Swimming Pool and Spa Pool Guidelines" in force at that time. Private pools are encouraged to comply with the same standards as applicable;
- c. in compliance with AS 1926.3-2003:Swimming pool safety - Water recirculation and filtration systems ;
- d. with backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e. with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- before 8 am or after 8 pm on any Sunday or public holiday, or
- before 7 am or after 8 pm on any other day.

Note: Child-resistant barriers, resuscitation signs, recirculation and filtration systems and controls systems require regular maintenance to ensure that life safety, health and amenity standards are maintained.

Note: The NSW Health Public Swimming Pool and Spa Pool Guidelines can be down loaded free from:
<http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>
Standard Condition: I13

I.4 Outdoor lighting – Residential

Outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminaire must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with table 2.1 of AS 4282.

Reason: This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

Note: This condition has been imposed to control the obtrusive effects of outdoor lighting.
Standard Condition: I42

I.5 Noise from mechanical plant and equipment

Noise from the operation of mechanical plant and equipment associated with the lift, swimming pool and air-conditioning must not exceed *background noise* when measured at the nearest lot boundary of the site. Where noise sensitive receivers are located within the site, noise from the operation of mechanical plant and equipment must not exceed *background noise* when measured at the nearest strata, stratum or community title boundary.

Reason: This condition has been imposed to protect the amenity of the neighbourhood.

Note: Words in this condition have the same meaning as in the:
NSW Industrial Noise Policy (http://www.environment.nsw.gov.au/resources/ind_noise.pdf)
ISBN 0 7313 2715 2, dated January 2000, and
Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nglg.htm>)
ISBN 1741370671, dated December 2004.
Standard Condition: I53

I.6 Discharge from flu

The discharge from the flu is to be in a manner so as not to cause danger or nuisance to occupants of neighbouring buildings or members of the public in accordance with the provisions of AS1668.2-1991 Section 3.7.

Reason: This condition has been imposed to protect the amenity of the neighbourhood.

J. Miscellaneous Conditions

None relevant.

K. Advisings

K.1 Criminal Offences – Breach of Development Consent & Environmental laws

Failure to comply with this development consent and any condition of this consent is a **criminal offence**. Failure to comply with other environmental laws are also a criminal offence.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent; and/or
- Seek injunctions/orders before the courts to restrain and remedy any breach.

Warnings as to potential maximum penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order.

This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

Note: The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of *the Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. You can obtain further information from the following web sites:

<http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the Attorney General's www.agd.nsw.gov.au.

Standard Advising: K1

K.2 Dial before you dig



The *principal contractor, owner builder* or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and Dial 1100 Before You Dig or visit www.dialbeforeyoudig.com.au.

When you contact Dial Before You Dig, you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

Standard Advising: K2

K.3 Commonwealth Disability Discrimination Act 1992 (“DDA”)

The Disability Discrimination Act 1992 (DDA) makes it against the law for public places to be inaccessible to people with a disability. Compliance with this development consent, Council’s Access DCP and the BCA does not necessarily satisfy compliance with the DDA.

The DDA applies to existing places as well as places under construction. Existing places must be modified and be accessible (except where this would involve "unjustifiable hardship”).

Further detailed advice can be obtained from the Human Rights and Equal Opportunity Commission (“HEROC”):

- <http://www.hreoc.gov.au/index.html>
- http://www.hreoc.gov.au/disability_rights/dda_guide/ins/ins.html

If you have any further questions relating to the application of the DDA you can send an email to HEROC at disabdis@humanrights.gov.au.

Standard Advising: K3

K.4 NSW Police Service and Road Closures

The Rose Bay Local Area Command closely aligns with the boundaries of the Woollahra local government area.

Council and Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Traffic Sergeant, Paddington Police Station, 16 Jersey Road, Paddington. Phone No. 02 8356 8299 or Fax No. 0283568211.

Warning: If you partially or fully close a road without compliance with Council and Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution.

Standard Advising: K4

K.5 Builders Licences and Owner Builders Permits

Section 81A of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appoint a *principal contractor* for residential building work who must be the holder of a contractor licence.

Further information can be obtained from the NSW Office of Fair Trading website about how you obtain an owner builders permit or find a principal contractor (builder):

<http://www.dft.nsw.gov.au/building.html> .

The Owner(s) must appoint the PCA. The PCA must check that Home Building Act insurance is in place before the commencement of building work. The Principal Contractor (Builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the Home Building Act 1989 for the residential building work.

Standard Condition: K5

K.6 Building Standards - Guide to Standards and Tolerances

The PCA does not undertake detailed quality control inspections and the role of the PCA is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia. Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the “Guide to Standards and Tolerances©” ISBN 0 7347 6010 8 are achieved.

The quality of any development is a function of the quality of the *principal contractor's* or *owner builder's* supervision of individual contractors and trades on a daily basis during the development. The PCA does not undertake this role.

The NSW Office of Fair Trading have published a “Guide to Standards and Tolerances©” ISBN 0 7347 6010 8. The guide can be obtained from the Office of Fair Trading by calling 13 32 20 or by Fax: 9619 8618 or by post to: Marketing Branch, PO Box 972, Parramatta NSW 2124.

The Guide can be down loaded from:

<http://www.fairtrading.nsw.gov.au/pdfs/corporate/publications/dft242.pdf>

Council, as the PCA or otherwise, does not adjudicate building contract disputes between the *principal contractor*, contractors and the owner.

Standard Condition: K6

K.7 Workcover requirements

The *Occupational Health and Safety Act 2000 No 40* and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Note: Further information can be obtained from Workcover NSW's website:

<http://www.workcover.nsw.gov.au/Industry/Construction/default.htm> or through their head office:

Location: Workcover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

Standard Condition: K7

K.8 Asbestos Removal, Repair or Disturbance

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW.

Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with:

- The Occupational Health and Safety Act 2000;
- The Occupational Health and Safety Regulation 2001;
- The Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (1998)];
- The Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)] <http://www.nohsc.gov.au/>]; and

- The Workcover NSW Guidelines for Licensed Asbestos Removal Contractors.

Note: The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259. Under the Occupational Health and Safety Regulation 2001, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work. Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. You should make yourself aware of the requirements by visiting www.workcover.nsw.gov.au or one of Workcover NSW's offices for further advice.

Standard Advising: K8

K.9 Lead Paint

It is beyond the scope of this consent to provide detailed information about dealing with lead paint. Painters working in an area containing lead-based paint should refer to Australian Standard AS 4361.1-1995, Guide to Lead Paint Management—Industrial Applications, or AS 4361.2-1998, Guide to Lead Paint Management—Residential and Commercial Buildings.

Industrial paints may contain lead. Lead is used in some specialised sign-writing and artist paints, and road marking paints, and anti-corrosive paints. Lead was a major ingredient in commercial and residential paints from the late 1800s to 1970. Most Australian commercial buildings and residential homes built before 1970 contain lead paint. These paints were used both inside and outside buildings.

Lead hazards - Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained. If runoff contains lead particles it must be contained. Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

Standard Advising: K9

K.10 Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act* 1991. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Department of Lands - <http://www.lands.nsw.gov.au/LandManagement/Dividing+Fences.htm>. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Over 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1800 671 964 or at <http://www.cjc.nsw.gov.au/>.

Standard Advising: K10

K.11 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact:

Mr Dimitri Lukas^[d15], Senior Assessment Officer on (02) 9391 7159^[d16]

However, if you wish to pursue your rights of appeal in the Land & Environment Court you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the Section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed commissioner having the full authority to completely determine the matter at the conference.

Standard Condition: K14

K.12 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 80A of the *Act*.

The securities will not be released until a *Final Occupation Certificate* has lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.

Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be.

Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed.

Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the Bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

Note: The Application for Refund of Security form can be downloaded from <http://www.woollahra.nsw.gov.au/pdf/Forms/Planning/RefundofSecurity.pdf>

Standard Condition: K15

K.13 Recycling of Demolition and Building Material

It is estimated that building waste, including disposable materials, resulting from demolition, excavation, construction and renovation, accounts for almost 70% of landfill. Such waste is also a problem in the generation of dust and the pollution of stormwater. Council encourages the recycling of demolition and building materials.

Standard Condition: K17

K.14 Owner Builders

Under the *Home Building Act 1989* any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from the Office of Fair Trading. See www.fairtrading.nsw.gov.au.

Standard Condition: K18

K.15 Pruning or Removing a Tree Growing on Private Property

Woollahra Municipal Council's *Tree Preservation Order 2006* (TPO) may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the TPO from Council's website www.woollahra.nsw.gov.au or you may contact Council on 9391-7000 for further advice.

Standard Condition: K19

K.16 Model

If you submitted a model with the application it must be collected from the Council offices within fourteen (14) days of the date of this determination. Models not collected will be disposed of by Council.

Standard Condition: K21 (Autotext KK21)

Mr D Lukas
SENIOR ASSESSMENT OFFICER

Mr M Schofield
TEAM LEADER

ANNEXURES

- A. Plans and elevation
- B. DCC Site Inspection Report (including previous report to Council)
- C. Memorandum to Council meeting of 22 October 2007