

Development Control Committee Minutes

Monday 21 May 2007

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Development Control Committee Minutes

**Minutes of the Meeting held on
Monday 21 May 2007 at 6.00pm**

Present: The Mayor, Councillor Keri Huxley, ex-officio (Item D1-D3)
Councillors John Comino (Chair) (Item D1-D3)
Claudia Cullen (Chair) (Item D4-R4)
Anthony Boskovitz
Christopher Dawson
Tanya Excell
Andrew Petrie
Geoff Rundle (Item D1- D3)

Staff: A Coker (Director – Planning & Development) (Item D5)
B Daintry (Manager – Development Control)
N Economou (Team Leader)
George Fotis (Team Leader)
Merle Karp (Team Leader – Governance)

Session One: 6.04pm – 7.40pm
Session Two: 8.18pm – 11.00pm

Also in Attendance: Councillor Wilhelmina Gardner (Item D5)
Councillor Julian Martin (Item D5)
Councillor Isobel Shapiro (Part Item D4, Part Item D5, Part Item D10)
Councillor David Shoebridge (Part Item D5 – D9)

Leave of Absence

Leave of Absence previously granted by Council: Nil

Apologies: Apologies were received and accepted from Councillor Comino, Huxley and Rundle for Items D4 to R4 and Leave of Absence granted.

Late Correspondence

Late correspondence was submitted to the committee in relation to Items: D2, D5 & D9

Declarations of Interest

Councillor Comino declared his interest in item D4 (779 New South Head Road, Rose Bay) as it involves an applicant who was a client of his partner and excused himself from the room when the item was heard.

Note: Item D8 was heard after item D10

Items Decided by this Committee using its Delegated Authority (Items D1 to D10)

Item No: D1 Delegated to Committee
Subject: **Confirmation of Minutes of Meeting held on 7 May 2007**
Author: Les Windle, Manager – Governance
File No: See Council Minutes
Reason for Report: The Minutes of the Meeting of Monday 7 May 2007 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.

(Boskovitz/Rundle)

Resolved:

That the Minutes of the Development Control Committee Meeting of 7 May 2007 be taken as read and confirmed.

D2 DA86/2007 – 83B Drumalbyn Road, Bellevue Hill – New lift passage & lift – 15/2/2007

Note: Late correspondence was tabled by Bruce Stafford & Associates & Madelein Rares.

Note: Ms Madelein Rares, objector of 83A Drumalbyn Road, Bellevue Hill addressed the Committee.

Note The Committee added additional Condition I.2 (Maintenance of Sound Attenuation).

(Cullen/Huxley)

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

THAT the Council, as the consent authority, grant development consent to Development Application No 86/2007 for alterations and additions to the existing dwelling to accommodate a new lift passage and lift on land at 83B Drumalbyn Road Bellevue Hill, 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

Reference	Description	Author/Drawn	Date(s)
DA01-DA10	Architectural Plans	Bruce Stafford Architects	January 2007
Ref 10130/1-AA	Geotechnical Report	Geotechnique P/L	24 October 2003
	Arborist Report	Active Tree Services	January 2007

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

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

B.1 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;

- Tree Protection Zone areas

Council Ref No	Species	Location	Radius from Trunk (Metres)*
As indicated in Active Tree Services, dated January 2007 Appendix A Tree Location and TPZ Plan			

Note: 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.

- 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
- 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
- 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
- sediment control measures are to be installed around all Tree Protection Zones to protect the existing soil levels
- 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 Payment of Long Service Levy, Security, Development Levy and Fees

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 prior to the issue of a construction certificate.

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986			
Long Service Levy http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm	Contact LSL Corporation	No	
SECURITY under section 80A(6) of the Environmental Planning and Assessment Act 1979			
Property Damage Security Deposit - making good damage caused to any property of the Council as a consequence of the doing of anything to which the consent relates	\$9,000	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	\$3,500 + Index Amount	Yes, quarterly	T94

INSPECTION FEES			
under section 608 of the Local Government Act 1993			
Security Administration Fee	\$163	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$12,663 plus any relevant indexed amounts and long service levy		

How must the payments be made?

Payments must be made by:

1. Cash deposit with Council,
2. Credit card payment with Council, or
3. 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?

To ensure that the value of 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 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

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.

C.2 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:

- “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001
- “*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 m
Standard Condition: C25

C.3 Structural Adequacy of Existing Supporting Structures

A certificate from a *professional engineer* (Structural Engineer), certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be submitted with the *Construction Certificate* application.

Note: This condition is imposed to ensure that the existing structure structural is able to support the additional loads proposed.
Standard Condition: C35

C.4 Professional Engineering Details

The *Construction Certificate* plans and specifications, required by clause 139 of the *Regulation*, must include detailed *professional engineering* plans and 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 specifications must be submitted to the *Certifying Authority* with the application for any *Construction Certificate*.

Standard Condition: C36

C.5 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: -
 - will detect any settlement associated with temporary and permanent works and structures
 - will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like)
 - will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity)
 - 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
 - a contingency plan

Standard Condition: C40

C.6 Stormwater discharge to existing *Stormwater Drainage System* (Clause 25(2) WLEP 1995)

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

- the location of the existing *Stormwater Drainage System* including all pipes, inspection openings, surface drains, pits and their discharge location
- the state of repair of the existing *Stormwater Drainage System*
- any remedial works required to upgrade the existing *Stormwater Drainage System* to comply with the BCA
- any remedial works required to upgrade the existing *Stormwater Drainage System* crossing the footpath and any new kerb outlets
- any new *Stormwater Drainage System* complying with the BCA
- interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath
- any rainwater tank required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*
- general compliance with the Council's draft Development Control Plan Stormwater Drainage Management (draft version 1, public exhibition copy dated 23 August 2004)

Where any new *Stormwater Drainage System* crosses the footpath area within any road, separate approval under section 138 of the *Roads Act* 1993 must be obtained from Council for those works prior to the issue of any *Construction Certificate*.

All *Stormwater Drainage System* work within any road or public place must comply with Woollahra Municipal Council's *Specification for Roadworks, Drainage and Miscellaneous Works* dated January 2003.

Note: Clause F1.1 of Volume 1 and Part 3.1.2 of Volume 2 of the BCA provide that stormwater drainage complying with AS/NZS 3500.3 Plumbing and drainage - Part 3: Stormwater drainage is deemed to satisfy the BCA. Council's specifications apply in relation to any works with any road or public place.

Note: Stormwater Drainage Systems must not discharge to any Sewer System. It is illegal to connect stormwater pipes and drains to the sewerage system as this can overload the system and cause sewage overflows. See:

<http://www.sydneywater.com.au/Publications/Factsheets/SewerfixLookingAfterYourSewerPipes.pdf>

Note: Woollahra Municipal Council's *Specification for Roadworks, Drainage and Miscellaneous Works* dated January 2003 and Council's draft Development Control Plan Stormwater Drainage Management (draft version 1, public exhibition copy dated 23 August 2004) can be downloaded from Council's website:

www.woollahra.nsw.gov.au

Standard Condition: C49

C.7 Sound Attenuation of the Passenger Lift

The Construction Certificate plans and specification required to be submitted pursuant to clause 139 of the Regulation must detail the sound attenuation works required (if any) to ensure that noise from the operation of the passenger lift does not to exceed the background noise level when measured at any boundary of the site.

Note: Further information including lists of Acoustic Engineers can be obtained from:

1. **Australian Acoustical Society**—professional society of noise-related professionals (www.acoustics.asn.au/index.php).

2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals (www.aaac.org.au).
Standard Condition: C61

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

D.1 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 be limited to) 83A Drumalbyn Road, 85 Drumalbyn Road and the right of way access from and including the crossing at Drumalbyn Rd for the full length.

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.2 Construction Management Plan – Approval and 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:-

- describe the anticipated impact of the construction works on: -
 - local traffic routes
 - pedestrian circulation adjacent to the building site
 - the public place including crown land and community land
 - and on-street parking in the local area
- describe the means proposed to: -
 - manage construction works to minimise such impacts
 - provide for the standing of vehicles during construction
 - provide for the movement of trucks to and from the site, and deliveries to the site

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

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.

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.3 Erosion and Sediment Controls – Installation

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

- the Soil and Water Management Plan if required under this consent
- “Do it Right On Site, Soil and Water Management for the Construction Industry” published by the Southern Sydney Regional Organisation of Councils, 2001
- “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.4 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),
- 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.5 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.6 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.7 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

E. Conditions which must be satisfied during any development work

E.1 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

- 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*.
- where excavation encounters tree roots with a diameter exceeding 75mm 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.
- 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 – 1996 "Pruning of Amenity Trees" and Workcover NSW Code of Practice Amenity Tree Industry 1998.
Standard Condition: E8

E.2 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.

The following trees must be retained

Council Ref No	Species	Location	Dimension (metres)
6	<i>Stenocarpus sinuatus</i> Firewheel Tree	Rear yard retained garden bed	9 (h) x 6 (w)

Note: The tree trees required to be retained should appear coloured green on the construction certificate plans.

The following trees may be removed

Council Ref No	Species	Location	Dimension (Metres)
1	<i>Ficus benjamina</i> Weeping Fig	Rear yard retained garden bed	7 (h) x 5 (w)
4	<i>Washingtonia robusta</i> Washington Palm		7 (h) x 3 (w)

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

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 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: -

- not erect or maintain any gate or fence swing out or encroaching upon the road or the footway
- not use the road or footway for the storage of any article, material, matter, waste or thing
- not use the road or footway for any *work*
- keep the road and footway in good repair free of any trip hazard or obstruction
- 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: -

- Australian Standard AS 1742 (Set) Manual of uniform traffic control devices and all relevant parts of this set of standards
- 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 used as a footway.
Standard Condition: E7

E.5 Maintenance of Environmental Controls

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

- erosion and sediment controls
- dust controls
- dewatering discharges
- noise controls
- vibration monitoring and controls
- ablutions

Note 1: See http://www.epa.nsw.gov.au/small_business/builders.htm for additional information.
Standard Condition: E11

E.6 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;

- the location and type of monitoring systems to be utilised
- recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the *professional engineer*
- 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.7 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.8 Erosion and Sediment Controls – Maintenance

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

- The Soil and Water Management Plan required under this consent
- “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001
- “*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.9 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.10 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.11 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.12 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, piercing, 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.13 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 position 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

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 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 include but may not be limited to:

- certification from the supervising professional engineer that the requirement of the Geotechnical / Hydrogeological conditions and report recommendations were implemented and satisfied during development work
- all flood protection measures

- all stormwater drainage systems
- all mechanical ventilation systems
- all hydraulic systems
- all structural work
- all acoustic attenuation work
- all waterproofing
- 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.2 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

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

Nil

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

Nil

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

I.1 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.2 Maintenance of Sound Attenuation

Sound Attenuation for the proposed lift including the lift motor room must be maintained in accordance with the acoustic report and Condition C7.

J. Miscellaneous Conditions

Nil

K. Advisings

K.1 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.2 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.3 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.4 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.5 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.6 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.7 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Simon Taylor, Assessment Officer on (02) 9391 7162.

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

D3 DA554/2006 – 599-601 New South Head Road & 1 Cranbrook Road, Rose Bay – Demolition of two existing hotel buildings at 599-601 New South Head Road & the dwelling-house at 1 Cranbrook Road & erection of a part 2 & part 4 storey residential care facility consisting of 71 bedrooms (80 beds) – 30/8/2006

Note: Mr Robert Chamber of BBC Consulting Planners on behalf of Mr Tim Casey, objector of 3A Cranbrook Road, Rose Bay, Mr Tim Casey, objector of 3A Cranbrook Road, Rose Bay, Ms Maureen Clark, objector on behalf of The Rose Bay Residents’ Association, Mr Markam Ralf, of Morrison Design Partnership, and Mr Shane Moran on behalf of the applicant addressed the Committee.

Note The Committee amended Condition No. 5 (Visual Privacy Measures) and Condition No. 20 (Footings in the vicinity of trees), and Condition No. 24 (Amenity Landscaping).

**Motion moved by Councillor Boskovitz
Seconded by Councillor Excell**

That this matter be referred to a site inspection

**Amendment moved by Councillor Huxley
Seconded by Councillor Comino**

That the matter be heard by the Committee tonight to hear from the objectors who are present and consider the proposed setback as it relates to 3A Cranbrook Road, Rose Bay

**The Motion was withdrawn.
The Amendment became the Motion.**

The Motion was put and adopted.

(Petrie/Dawson)

Resolved: 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 objection under SEPP 1- Development Standards to Council's height development standard under Woollahra LEP 1995 is well founded. The Council is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as the non-complying section of the development not have any adverse impact upon the amenity of the locality and will achieve the objectives of the height standard, subject to **Condition 3**.

AND

THAT the Council, as the consent authority, being satisfied that, subject to **Condition 3**, the objection under SEPP 1 is well founded and also being of the opinion that the granting of consent to Development Application No. 554/2006 is consistent with the aims of the Policy, grant development consent to DA No. 554/2006 for the demolition of the two existing hotel buildings at 599-601 New South Head Road and the dwelling-house at 1 Cranbrook Road and the erection of a part 2 and part 4 storey residential care facility consisting of 71 bedrooms (80 beds) subject to the following conditions:

1. Approved Plans

The development must be carried out in accordance with plans numbered DA03B-14B inclusive, dated 27.10.06, drawn by Morrison Design Partnership Architects P/L, including landscape plans numbered landscape plans labelled Levels 3 & 4 and Levels 5, 6 and 7, designed by Jocelyn Ramsay and Associates, dated 15.8.06 all of which carry a Council stamp "**Approved DA Plans**" and the signature of a Council officer, except where amended by the following conditions.

2. Deletion of the proposed provision of the "day care service" to non-residents

On the basis that the proposed provision of the "day care service" to non-residents is not permissible under SEPP (Seniors Living) 2004 or Woollahra LEP 1995 within the subject Residential 2 (a) and (b) zones, this development consent does not permit this.

3. Reduction to the height of the lifts and the deletion of the roof terrace at Level 7

In order to adequately mitigate loss of privacy and adverse visual impacts upon the locality, the roof terrace at Level 7 and associated balustrading, planters and access are to be deleted. Further, the double lift at Level 7 is to be modified to a double lift overrun extending a maximum of the 2 m above roof level (RL17.4). Such is to be indicated on the plans submitted with the Construction Certificate application.

4. Hours of operation

The permissible hours of operation of the facility are 24 hours for the residential care facility with residents, visitors and staff able to use the ground floor dining area from 7.30am to 11pm everyday. The doors to the adjacent terrace (fronting Cranbrook Road) are to be open from 7.30am to 10.00pm, Monday to Saturday and from 7.30am to 9.00pm on Sunday.

5. Visual privacy measures

In order to adequately mitigate loss of visual privacy impacts upon the adjoining properties to the west (3 Cranbrook Rd and 597 New South Head Road), fixed, dark non-reflective louvres are to be provided up to a height of 1.7m above the respective floor levels to the following terraces:

- the rear alignment and western side of the rear terrace at Level 6
- the western terrace to Beds 10 and 11 at Level 6
- all of the western terraces at Levels 4 and 5.

The following windows are to have fixed translucent glazing up to a height of 1.7m above the respective floor levels:

- Beds 10 and 11 at Level 6
- Beds 6, 7, 10 and 11 at Level 5
- Beds 7, 8, 11, 12, 13, 14 and 15 at Level 4

Such is to be indicated on the plans submitted with the Construction Certificate application.

6. Reduction to the height of front fence

In order to maintain the visual amenity of New South Head Road, the front section of the western side boundary steel fence extending forward of the northern elevation of the development is to be reduced in height to 1.4 m above ground level. Such is to be indicated on the plans submitted with the Construction Certificate application.

7. Occupation of the development

In accordance with the provisions of *Clause 20 Restrictions on occupation* under SEPP (Seniors Living) 2004, the occupation of the development is limited to the following:

- seniors or people who have a disability,
- people who live within the same household with seniors or people who have a disability,
- staff employed to assist in the administration of and provision of services to the residential care facility.

8. Internal acoustic amenity measures

In order to adequately mitigate internal sound transmission and road traffic noise impacts upon internal residents, the recommendations contained within the acoustic reports titled Internal Sound Transmission and Insulation to meet the BCA (2005) Part F5 and Road Traffic Noise Assessment, numbered nss20841-Final, dated February 2006 and prepared by Noise and Sound Services submitted with the development application.

Further, as advised by the RTA, the proposed development should be designed such, that road traffic noise from New South Head Road is mitigated by durable materials, in accordance with EPA criteria for new land use developments (The Environmental Criteria for Road Traffic Noise, May 1999). The RTA's Environmental Noise Management Manual provides practical advice in selecting noise mitigation treatments.

Where the EPA external noise criteria would not practically or reasonably be met, the RTA recommends that Council apply the following internal noise objectives for all habitable rooms under ventilated conditions complying with the requirements of the Building Code of Australia. All habitable rooms other than sleeping rooms: 45 dB(A) Leq(15hr) and 40 dB(A) Leq(9hr) and sleeping rooms: 35 dB(A) Leq(9hr).

9. Internal security measure

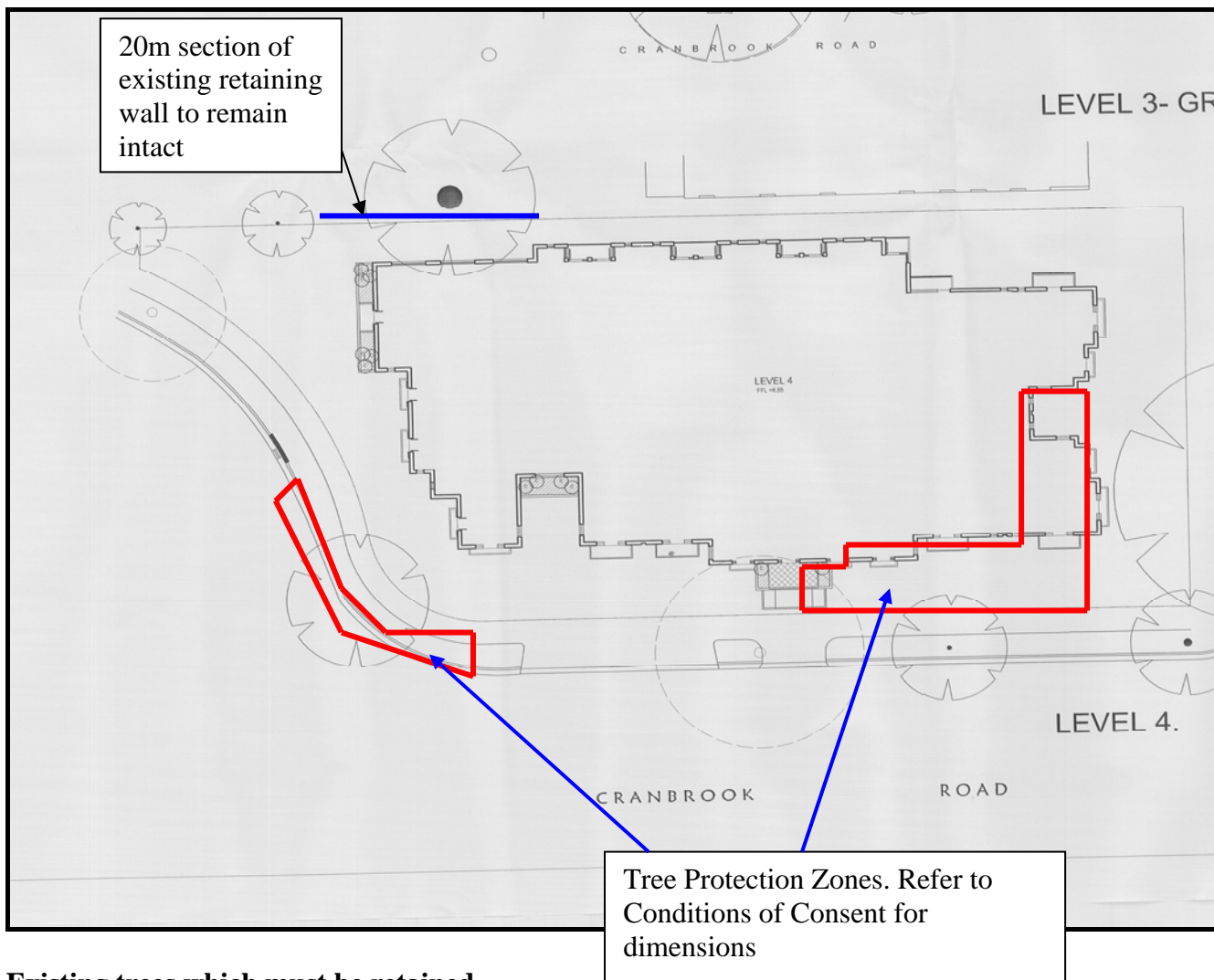
In order to enable residents to see visitors without the need to open their door in accordance with the provisions of *Clause35 Crime prevention* under SEPP (Seniors Living) 2004, the doors to the individual bedrooms are to be provided with a peephole.

10. Tree Damage Security Deposit

Description	Amount	Indexed Annually
Tree Damage Security Deposit - Making good any damage caused to any public tree as a consequence of the doing of anything to which the consent relates.	\$47 300.00	Yes

11. Protection of Tree 5 *Cinnamomum camphora* (Camphor Laurel)

In order to ensure the protection of the roots of 5 *Cinnamomum camphora* (Camphor Laurel) located approximately 500mm from the eastern boundary within the property of 3 Cranbrook Road, a 20m long section of the existing western retaining wall as indicated below shall remain intact. Such is to be indicated on the plans submitted with the Construction Certificate application.



12. Existing trees which must be retained

The following trees are to be retained on the site and protected during all works.

Trees on Council Land

Council Reference No:	Species	Location	Dimension
1	Hills Fig (<i>Ficus microcarpa</i>)	Within road reserve (nature strip) along New South Head Road (north-eastern) frontage.	H: 12m W: 14m Ø: 1.2m
2	Hills Fig (<i>Ficus microcarpa</i>)	Within road reserve (nature strip) at intersection of New South Head Road and Cranbrook Road.	H: 9m W: 7m Ø: 0.6m
3	Lilly Pilly (<i>Syzigium paniculatum</i>)	Within road reserve (nature strip) on Cranbrook Road frontage.	H: 9m W: 7m Ø: 0.4m
6	Brush Box (<i>Lophostemon confertus</i>)	Within road reserve (nature strip) on Cranbrook Road frontage. Adjacent southern corner of site.	H: 9m W: 10m Ø: 0.6m

Trees on Private Property

Council Reference No:	Species	Location	Dimension
5	Camphor Laurel (<i>Cinnamomum camphora</i>)	Adjacent eastern boundary of adjoining site identified as No. 3 Cranbrook Road.	H: 18m W: 14m Ø: N/A

A Tree Damage Security Deposit has been applied to trees located on Council land in accordance with Council's policy. The Tree Damage Security Deposit is required for individual trees when considered appropriate by Council's Tree Officer. The value of the Deposit represents the full value of the tree as calculated using the Thyer Tree Valuation method. The Tree Damage Security Deposit will not be released until Council has inspected and is satisfied with the condition of the trees to which it applies. Council may use part or the entire Deposit to carry out works to trees or replace them if they are not in a satisfactory condition. Where trees have not been preserved and retained in accordance with this Consent, the applicant may forfeit the total Deposit amount.

The Construction Certificate plans must include reference to the retention of the above mentioned trees and identify the trees by Councils reference number (Ref No:) and colour or shade them in the colour green for trees to be retained and yellow for trees to be transplanted.

13. Trees which may be removed

This consent includes approval under Council's Tree Preservation Order to remove the following trees:

Council Reference No:	Species	Location	Dimension (Metres)
4	Hills Fig (<i>Ficus microcarpa</i>)	Within road reserve (nature strip) on Cranbrook Road. Adjacent southern frontage of subject site.	H: 9m W: 7m Ø: 0.4m

The Construction Certificate plans must include reference to the removal of the above mentioned trees and identify the trees by Council's reference number (Council Ref No:) and colour or shade them in the colour red.

14. Replacement trees which must be planted

The following compensatory replacement plantings must be planted to ensure the preservation of the landscape character of the area.

Species/Type	Planting Location	Container Size or Size of Tree (@ time of planting)	Minimum Dimensions at Maturity
As per Landscape Plan - Levels 3 & 4 & Levels 5, 6 and 7, designed by Jocelyn Ramsay and Associates, dated 15.8.06.			
<i>Lophostemon confertus</i> (Brush Box)	As per Landscape Plan	100Litre	

15. Trees which may be pruned

This consent includes approval under Council’s Tree Preservation to prune the following trees:

Council Reference No:	Species	Location	Approved Works
3	Lilly Pilly (<i>Syzigium paniculatum</i>)	Within road reserve (nature strip) on Cranbrook Road frontage.	Prune to provide maximum 2m clearance from proposed building line

Pruning Approval of the above trees, is subject to all pruning works being undertaken by an experienced Tree Surgeon-Arborist with a minimum qualification of a Certificate in Arboriculture. All works undertaken are to be in accordance with Australian Standard AS 4373 – 1006 “Pruning of Amenity Trees” to ensure the preservation of the existing trees on the site.

16. Tree Protection Zones

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

- a) Tree Protection Zones are to established within the specified radius from the trunks of the following trees;

Council Reference No:	Species	Location	Radius from Trunk (Metres)
1	Hills Fig (<i>Fucus microcarpa</i>)	Within road reserve (nature strip) along New South Head Road (north-eastern) frontage.	<ul style="list-style-type: none"> • To extent of road reserve (nature strip) excluding existing footpaths & driveways • Radius of 7.5m from the trunk within the property
2	Hills Fig (<i>Fucus microcarpa</i>)	Within road reserve (nature strip) at intersection of New South Head Road and Cranbrook Road.	<ul style="list-style-type: none"> • To extent of road reserve (nature strip) excluding existing footpaths & driveways • Radius of 10m from the trunk within the property
3	Lilly Pilly (<i>Syzigium paniculatum</i>)	Within road reserve (nature strip) on Cranbrook Road frontage.	<ul style="list-style-type: none"> • To extent of road reserve (nature strip) excluding existing footpaths & driveways • Radius of 4m from the trunk within the property
6	Brush Box (<i>Lophostemon confertus</i>)	Within road reserve (nature strip) on Cranbrook Road frontage. Adjacent southern corner of site.	<ul style="list-style-type: none"> • To extent of road reserve (nature strip) excluding existing footpaths & driveways • Radius of 4m from the trunk within the property

- b) Tree Protection Zones are to be fenced with a 1.8 meter 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.

- d) Installation of all Tree Protection measures shall be at the direction of and overseen by a qualified Arborist (minimum Australian Qualification Framework Level 4 or recognised equivalent).
- e) 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.
- f) 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.
- g) Sediment control measures are to be installed around all Tree Protection Zones to protect the existing soil levels.
- h) The storage of materials, stockpiling, siting of works sheds, preparation of mixes, cleaning of tools or equipment is not permitted within Tree Protection Zones.
- i) Access within the tree Protection Zones shall only be permitted with the approval and supervision of the site Arborist. The Arborist shall document all activities within the 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.

17. Demolition and excavation within tree protection zones

Demolition and excavation within the radius of the trunks of the following trees must be undertaken by hand. Small hand tools only are to be utilised, mattocks and similar digging tools are not to be used within these areas. Root with a diameter equal to or in excess of 30mm shall not to be severed.

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

All work within the Tree Protection Zone shall be supervised by the site Arborist. Works that constitute a variation of the Conditions of Consent require approval.

Council Reference No:	Species	Location	Radius from Trunk (Metres)
1	Hills Fig (<i>Fucus microcarpa</i>)	Within road reserve (nature strip) along New South Head Road (north-eastern) frontage.	7.5
2	Hills Fig (<i>Fucus microcarpa</i>)	Within road reserve (nature strip) at intersection of New South Head Road and Cranbrook Road.	10
3	Lilly Pilly (<i>Syzigium paniculatum</i>)	Within road reserve (nature strip) on Cranbrook Road frontage.	4
6	Brush Box (<i>Lophostemon confertus</i>)	Within road reserve (nature strip) on Cranbrook Road frontage. Adjacent southern corner of site.	4

18. Paving in the vicinity of trees

Paving works within the specified radius from the trunks of the following trees shall be constructed above grade.

Council Reference No:	Species	Location	Radius from Trunk (Metres)
1	Hills Fig (<i>Fucus microcarpa</i>)	Within road reserve (nature strip) along New South Head Road (north-eastern) frontage.	7.5
2	Hills Fig (<i>Fucus microcarpa</i>)	Within road reserve (nature strip) at intersection of New South Head Road and Cranbrook Road.	10
3	Lilly Pilly (<i>Syzigium paniculatum</i>)	Within road reserve (nature strip) on Cranbrook Road frontage.	4
6	Brush Box (<i>Lophostemon confertus</i>)	Within road reserve (nature strip) on Cranbrook Road frontage. Adjacent southern corner of site.	4

Paving works are to be designed in consultation with a qualified Arborist (minimum qualification of Australian Qualification Framework Level 4 or recognised equivalent) and are to utilise such measures as semiporous material.

Root with a diameter equal to or in excess of 30mm shall not be severed

19. Level changes in the vicinity of trees

Level changes shall not occur within the specified radius from the trunks of the following trees to allow for the preservation of their root zones.

Council Reference No:	Species	Location	Radius from Trunk (Metres)
1	Hills Fig (<i>Fucus microcarpa</i>)	Within road reserve (nature strip) along New South Head Road (north-eastern) frontage.	7.5
2	Hills Fig (<i>Fucus microcarpa</i>)	Within road reserve (nature strip) at intersection of New South Head Road and Cranbrook Road.	10
3	Lilly Pilly (<i>Syzigium paniculatum</i>)	Within road reserve (nature strip) on Cranbrook Road frontage.	4
6	Brush Box (<i>Lophostemon confertus</i>)	Within road reserve (nature strip) on Cranbrook Road frontage. Adjacent southern corner of site.	4

20. Footings in the vicinity of trees

Footings to support any structure within the Tree Protection Zones (listed below) are to be supported on an isolated network of pier and beams. This includes the masonry/steel palisade fence on the northern and eastern boundaries and the western boundary fence

Excavations required to accommodate the foundations for the piers are to be positioned so roots with a diameter equal to or in excess of 30mm are retained.

The smallest possible area is to be excavated which allows for the construction of the pier. The beams are to be placed a minimum of 100mm above natural ground level and are to be designed to bridge all tree roots with a diameter greater than 30mm.

Council Reference No:	Species	Location	Radius from Trunk (Metres)
1	Hills Fig (<i>Ficus microcarpa</i>)	Within road reserve (nature strip) along New South Head Road (north-eastern) frontage.	7.5
2	Hills Fig (<i>Ficus microcarpa</i>)	Within road reserve (nature strip) at intersection of New South Head Road and Cranbrook Road.	10
3	Lilly Pilly (<i>Syzigium paniculatum</i>)	Within road reserve (nature strip) on Cranbrook Road frontage.	4
6	Brush Box (<i>Lophostemon confertus</i>)	Within road reserve (nature strip) on Cranbrook Road frontage. Adjacent southern corner of site.	4
5	Camphor Laurel (<i>Cinnamomum camphora</i>)	Adjacent eastern boundary of adjoining site identified as No. 3 Cranbrook Road.	20

21. Hand excavation within tree root zones

Hand excavation shall be undertaken to locate the position of the foundations to support the piers. This is to prevent damage to roots and compaction of the soil. Small hand tools shall be utilised, mattocks and similar digging tools shall not be used. Root with a diameter equal to or in excess of 30mm are to be retained and protected during all works.

22. Active Landscape Management Contract

The applicant/owner must submit to Council, prior to the issue of a Construction Certificate, a copy of an Active Landscape Management contract for the maintenance of the Landscaping on the subject site. The contract must be for a period of not less than 3 years after completion of construction, including installation of landscaping, on the site.

23. Sewer pipe connection

All existing underground sewer pipes affected by the works in this consent must be replaced as far as Sydney Water's sewer main. These pipes must be welded or jointed in such a manner so as to prevent leakage and must not be located less than five (5) metres from the base of any Council street tree. The replacement work must be inspected by a registered plumber who must certify, by way of a compliance certificate submitted to Council, that this condition has been satisfied.

24. Amenity Landscaping

In order to assist in the mitigation of loss of visual privacy to 3 Cranbrook Road, substantial Australian native landscaping is to be provided in the location of the existing garage. Such is to be indicated on the landscape plans submitted with the Construction Certificate Application. 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.

25. 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 that the works as completed comply with this consent.

26. Maintenance of Landscaping

All landscaping must be maintained in accordance with the approved landscape plans. Any alteration from that plan will require the prior written consent of Council.

27. NSW Maritime requirements

A Part 3A Permit under the Rivers and Foreshores Improvement Act 1948 is not required subject to the following general terms being met:

- The proposed works are to be carried out so that:
 - (a) No materials are eroded, or likely to be eroded, are deposited, or likely to be deposited, on the bed or shore or into the waters of Sydney Harbour; and
 - (b) No materials are likely to be carried by natural forces to the bed, shore or waters of Sydney Harbour.
- Any material that does enter Sydney Harbour must be removed immediately.
- Best practice methods shall be adopted for the on-site control of runoff, sediment and other pollutants during, and post, construction. Methods shall be in accordance with the relevant specifications and standards contained in the manual *Managing Urban Stormwater- Soils & Construction* issued by the NSW Department of Housing in 1998 and any other relevant Council requirements.
- The erosion, sediment and pollution controls shall be installed and stabilised before commencement of site works. This does not include the works associated with the construction of the appropriate controls.
- The erosion, sediment and pollution control system must be 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.
- Any material that is to be stockpiled on site is to be stabilised to prevent erosion or dispersal of the material.

- Any foreshore landscaping is to include locally indigenous species, which represent the original plant communities that would have been found along the shoreline in the vicinity of the subject land.
- No works are to be undertaken on land owned by NSW Maritime (i.e below MHWM) without the relevant approvals being granted by NSW Maritime.

28. Stormwater Management Plan

A Stormwater Management Plan for the site must be submitted with the application for a Construction Certificate. This Condition is imposed to ensure site stormwater is disposed in a controlled and sustainable manner.

The Stormwater Management Plan must be in accordance with Council's Draft Stormwater Drainage Management DCP (Draft Version 1, Public Exhibition Copy dated 23/08/2004). This is available from Council's website <http://www.woollahra.nsw.gov.au>. The plan must generally be in accordance with the drainage plans and documentation prepared by Hughes Trueman Dwg No. HSK-3 Revision A dated 09-08-05

Stormwater run-off from the proposed development must drain by a gravity drainage system to existing pit New South Head Road. New drainage systems must be designed in accordance with Section 6 - "Connection to drainage system" of Council's Draft Stormwater Drainage Management DCP.

A detailed Stormwater Management Plan must be produced by a suitably qualified civil or hydraulic engineer. The plan must be at a scale of 1:100 and 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 (as appropriate for the site and determined by the Hydraulic Consultant):

- All pipe layouts, dimensions, grades, lengths and material specifications
- All invert levels reduced to Australian Height Datum (AHD)
- Location and dimensions and of all drainage pits
- Point of connection to Councils drainage infrastructure
- Overland flow paths over impervious areas.
- Copies of certificates of title, showing the creation or existence of private easements to drain water by gravity, if required.
- Subsoil drainage details (layout, grades, and material), clean out points and discharge point.

29. Stormwater Certification and Work-As-Executed (WAE) Plans

Prior to the release of the Final Building Certificate, Certification and Work-As-Executed (WAE) plans must be submitted and approved by the Accredited Certifier demonstrating that the site drainage system has been provided according to the submitted calculations and/or approved plans.

Certifications must be provided by a suitably qualified engineer. WAE plans must be prepared and certified by a Registered Surveyor.

The following must be provided:

- a) Certification that:
- The drainage system has been installed in accordance with the drainage Conditions of Development Consent.
 - That all drainage components, including the on site detention, are structurally adequate and have been installed in accordance with the relevant Codes and Standards and/or specifications.
- b) Work-As-Executed (WAE) plans showing:
- Pipe and drainage system layout, including all pits, pipe diameters, grades, materials, invert levels and surface levels.
 - Details (exact point and method) of connection to Council system

30. Protection of Councils drainage infrastructure near construction works

Council drainage infrastructure is located in the “zone of influence” of the proposed excavations. It must be fully protected and supported during construction works.

A practising engineer must prepare a report on the current structural condition of the existing 300mm and 610mm drainage lines and pits adjacent to the property in Cranbrook and New South Head Road. The report must include a closed circuit television (CCTV) inspection of the drainage lines and junction pits to assess the structural and serviceability condition of the lines. The report and DVD format video must be submitted to Councils Drainage Engineer prior to the commencement of any demolition, excavation or construction activities.

At the completion of all construction works, a follow up dilapidation report must be prepared recording the structural condition of the existing 300 and 610 mm drainage lines and pits adjacent to the property in Cranbrook and New South Head Road. The report must include a follow-up closed circuit television (CCTV) inspection of the drainage line. The engineer must certify that the construction work has not damaged Councils drainage line.

The follow-up report, video and certification must be submitted to Councils Drainage Engineer at the completion of works, and prior to the issue of the Occupation Certificate.

If the drainage line is damaged as a result of the construction works, Council may use all or part of the Damage Security Deposit to repair the drainage line.

31. Flood Protection

In accordance with Council's Draft Stormwater Management Code, flood protection must be achieved up to the following 1 in 100 year ARI flood levels, stated in the Flood Study by Ian Young & Assoc Engineers dated 18 August 2006 (excluding freeboard):

- Section DD = NA
- Section CC = 4.70m AHD
- Section BB = 3.66m AHD
- Section at Driveway ramp = 3.47m AHD (Interpolated)
- Section AA = 3.28 AHD
- Section at New South Head Road = 2.91m AHD

(Note: For freeboard for Habitable Levels add 0.3 m and Garage Level add 0.15 m to the above levels – locations in between sections are to be interpolated)

All habitable rooms are to be protected to these levels from the penetration of floodwaters through openings such as walls, windows, stairs, entrance ways driveway etc and any access points **without raising the Level 6 roof level above RL15.4.**

The flood protection levels are to be as follows:

1. Sections DD to CC – The habitable rooms to the south off Cranbrook Road is proposed to have a floor level of RL 3.6m AHD. The walls, windows, Stairs 2 and any access points are to be protected to the Flood Level + 0.3m freeboard and at this location are to be a minimum of 5.00m AHD at Section CC and the flood protection is to rise accordingly with the rise in flood level plus freeboard.
2. Section BB – The driveway, loading dock and utility rooms behind are to be RL 3.66 + .15m = 3.81m AHD.
 - Revised levels for Loading Dock = 3.85m AHD
 - Revised Loading dock door access=3.97m AHD

These levels are satisfactory

Protection is to be provided for habitable room behind this area up to a level of $3.66+.3m = 3.96m$ AHD

3. The proposed ramp level which is halfway between Sect AA and BB = $3.47 + 0.15 = 3.62m$ AHD. The design floor level is 3.7m AHD which is acceptable
4. Section AA – The Flood level is $3.28m + 0.3m = 3.58m$ AHD which is below floor level (FFL) of 3.6m AHD and is satisfactory
5. Section at New South Head Road - The level is $2.91m + 0.3m = 3.21m$ AHD and is well below the habitable floor level of 3.6m AHD. From the plans it appears that Stair 1 has a threshold of 3.6m AHD which will provide protection to the habitable area below.

The required flood levels and flood protection measures are as shown on Flooding Report by Ian Young & Assoc Engineers dated 18 August 2006 Figures 7.1(b) and 7.2(b) are to be adopted

The flood protection measures and threshold levels are to be monitored, approved and certified as complying by a suitably qualified engineer. All levels for flood protection measures and floor levels must be certified by a registered surveyor immediately after construction to confirm levels. The certifications must be submitted to the Accredited Certifier prior to the release of the Final Building Certificate.

32. Erosion and sediment control

An erosion and sediment control plan, designed in accordance with the SSROC Soil and Water Management Brochures titled "Do it Right on Site" and the current version of the NSW Landcom publication "Managing Urban Stormwater: Soils and Construction" (*The Blue Book*), must be prepared to show erosion and sediment control measures which are to be installed. The Plan must be submitted to Council or the accredited certifier for approval before commencement of excavation or construction work.

33. Compliance with erosion and sediment control plan

The erosion and sediment control plan must be implemented during site works and construction activities. 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 accredited certifier and Council officers on request.

34. Sediment removal from vehicle wheels

A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, must be installed to prevent mud and dirt leaving the site and being deposited on the street.

35. Display of Council's warning sign for soil and water management

Throughout the demolition, excavation and construction period, Council's warning sign for soil and water management must be displayed on the most prominent point of the building site, visible both from the street and site. A copy of the sign is available from Council.

36. Stockpiles

Stockpiles of topsoil, sand, aggregate, soil or other material must not be located on any drainage line or easement, natural watercourse, footpath or roadway, or within the dripline of any Street Tree. Stockpiles within the construction site must be protected with adequate sediment controls, in accordance with Council's Code for Sediment Control.

37. Location of building operations

Building operations such as brick cutting, washing tools or brushes and mixing mortar must not take place on public roadways or footways or in any other location which could lead to the discharge of materials into the stormwater drainage system. Footpaths, gutters and roadways must be swept regularly to keep them free from sediment.

38. Temporary disposal of roof water

Stormwater from any roof areas must be linked, via a temporary downpipe, to a Council approved stormwater disposal system immediately upon completion of the roof installation.

39. Disposal of site water during construction

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.

40. Construction management plan

A construction management plan must be submitted for the approval of 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:**
 - local traffic routes
 - pedestrian circulation adjacent to the building site
 - and on-street parking in the local area, and;
- b. **describe the means proposed to:**
 - manage construction works to minimise such impacts,
 - provide for the standing of vehicles during construction,
 - provide for the movement of trucks to and from the site, and deliveries to the site, (identify the amount of excavation, the number of truck movements to remove the material) and;
- c. **show the location of:**
 - any site sheds and any anticipated use of cranes and concrete pumps,
 - any areas of Council property on which it is proposed to install a construction zone, or to erect structures such as hoardings, scaffolding or shoring, or to excavate.

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 consent from Council. Standing of cranes and concrete pumps on Council property will need consent on each occasion.

Note: 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.

41. Compliance with the construction management plan

All excavation, demolition and construction work 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.

42. Hoarding

A Class B (Overhead) Hoarding or Scaffolding is required for this development site for the full length of the property on Cranbrook Road and/or New South Head Road.

An application for the required Hoarding must be submitted to Woollahra Council prior to any Construction Certificate being issued. Prior to commencement of any demolition, land clearing, piling, piercing, excavation, construction or like work or the issue of a Notice of Commencement, approval for the required Hoarding must be obtained and the required Hoarding erected.

Note: A minimum of two weeks is required for assessment of a Hoarding application. Failure to comply with this condition may result in fines and proceedings to stop work.

43. Works Zone

A Work Zone (Construction Zone) is required for this development. Prior to issue of the Construction Certificate an application for the required Works Zone must be submitted to Woollahra Council, for consideration by the Woollahra Local Traffic Committee.

Prior to commencement of any demolition, land clearing, piling, piercing, excavation, construction or like work or the issue of a Notice of Commencement of building works, any Works Zone approval by the Woollahra Local Traffic Committee shall be implemented strictly in accordance with the Committee's terms and conditions.

Note:

- The Woollahra Local Traffic Committee meets monthly.
- A minimum of eight weeks is required for assessment and determination of a Works Zone application.
- Failure to comply with this condition may result in fines and proceedings pursuant to Part 6 of the *Environmental Planning & Assessment Act 1979*.

44. Dilapidation reports for Public Infrastructure

A dilapidation report is to be submitted by the applicant on the existing state of Council infrastructure adjoining the development site. The report must include colour photographs of the following streets:

- Cranbrook Road, Rose Bay – For full frontage (All Council's assets)

A suitably qualified and experienced engineer must prepare the dilapidation report. The report must be completed and submitted to Council prior to the commencement of any demolition, excavation or construction works.

45. Damage security deposit

A security deposit of **\$276,936.00 (Two hundred and seventy six thousand, nine hundred and thirty six dollars)** for the cost of making good any damage to Council property caused as a consequence of the construction work, plus an administration fee of **\$163.00**, must be paid to Council prior to the issue of the Construction Certificate. The security deposit, which may be in the form of a bank guarantee, has been calculated in accordance with the following schedule.

Estimated cost of work	Deposit
Works up to \$50,000	\$2,000
Works in excess of \$50,000 & up to \$100,000	\$4,000
Works in excess of \$100,000	\$4,000+\$200/\$10,000 estimated cost>\$100,000

The security or bank guarantee must not have an expiry date.

Council may use all or part of the Damage Security Deposit to complete damage restoration works if they do not meet Council's requirements.

46. Infrastructure Works – Drainage and Road works

a) Works Required

The following drainage and road infrastructure works must be carried out on Council property at the Applicants expense:

Cranbrook Road

- Construction of a new (commercial) concrete driveway crossing and layback (for carpark entrance and loading bay) on Cranbrook Road 12m wide and layback in accordance with Council's Standard Drawing RF2. Levels in the footpath area must match existing.
- Full reconstruction of the concrete footpath over the full frontages of the development site on both Cranbrook Road and New South Head Road in accordance with Council's Standard Drawing RF3.
- Construction of the road shoulder in Cranbrook Road for the full frontage of the property from New South Head Rd to No3 Cranbrook Rd. The road shoulder reconstruction is to be for a width of 2m.
- Full reconstruction of the concrete kerb and gutter over the full frontages of the development site on both Cranbrook Road and New South Head Road (except in location of proposed driveway) in accordance with Council's Standard Drawing RF2. Levels to match existing.
- The removal and replacement of the existing retaining wall on the property boundary at No. 1 Cranbrook Rd.
- New grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf. Any alternative treatment must be carried out to the satisfaction of Council's Development Engineer.

New South Head Road

- In New South Head Rd due to the irregular path level the path is to be constructed with a 3% crossfall from the boundary to the top of the kerb. The footpath gradient along the frontage is to be a single grade with the path falling from No597 New South Head Rd to the kerb return at Cranbrook Road.
- Removal of the redundant driveway crossing and kerb layback on New South Head Road. Reinstatement of concrete footpath, kerb and gutter and turfed verge to match existing in this location.

- Full reconstruction of the concrete kerb and gutter over the full frontages of the development site on both Cranbrook Road and New South Head Road (except in location of proposed driveway) in accordance with Council's Standard Drawing RF2. Levels to match existing.
- Full repair of all damaged/dilapidated sections of road pavement shoulder adjacent to the property on New South Head Road.
- The removal and replacement of the existing retaining wall on the property boundary at No. 1 Cranbrook Rd.
- New grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf. Any alternative treatment must be carried out to the satisfaction of Council's Development Engineer.

Copies of Council's Standard Drawings and Specifications are available on web-site <http://www.woollahra.nsw.gov.au>

b) **Approval**

Development Consent does NOT give approval to these works on Council property. A SEPARATE APPROVAL IS REQUIRED UNDER SECTION 138 AND 139 OF THE ROADS ACT 1993 FOR THE WORKS REQUIRED BY THIS CONDITION. The Construction Certificate must not be issued until Council's Manager - Public Infrastructure has issued the Applicant with a written consent under the Roads Act.

An "Application to carry out works in a Public Road" form (available from Councils web-site <http://www.woollahra.nsw.gov.au>) must be completed and lodged, with the Application fee, at Councils Customer Services counter. Detailed engineering plans and specifications of the works required by this Condition must accompany the Application form. The plans must clearly show the following:

Engineering drawings (plan, sections and elevation views) and specifications of the:

Cranbrook Road

- driveway construction in Cranbrook Road
- redundant driveway removals and reconstruction
- pavement construction in Cranbrook Road
- reconstruction of retaining wall in Cranbrook Road

New South Head Road

- footpath reconstruction in New South Head Road.
- kerb and gutter reconstruction in New South Head Road and Cranbrook Road

Four weeks should be allowed for assessment. Works generally must be in accordance with the relevant clauses of the current edition of AUS-SPEC.

c) **Infrastructure works bond**

To ensure that works on Council property required by this Condition are carried out to Council's requirements, the developer must lodge a bond to the value of **\$54,000 (Forty four thousand dollars)**. The Bond may be in the form of a bank guarantee and must be lodged prior to the issue of a Construction Certificate.

The Bond will not be released until:

- Council has inspected the site and is satisfied that the works have been carried out to Council's requirements.
- Submission to Council of CCTV survey of the pipeline on DVD format and a covering report.
- Certification and Work-As-Executed (WAE) plans have been submitted to Council demonstrating that the site drainage system has been provided according to the submitted calculations and/or approved plans.
- Certifications must be provided by a suitably qualified engineer. WAE plans must be prepared and certified by a Registered Surveyor.
- A Certificate from a suitably qualified civil engineer that the works have been carried out in accordance with the approved plans and in a satisfactory manner.

Council may use part or all of the bond to complete the works to its satisfaction if the works do not meet Council's requirements.

After Council's final inspection of these works 10% of the bank guarantee will be retained for a further twelve (12) month period and used by Council to repair any defects or temporary works necessary after the final inspection.

47. Works on New South Head Road

The developer is to comply with the requirements of the RTA for works on New South Head Road. All works / regulatory signposting associated with the development will be at no cost to the RTA.

48. Repair of Damaged Infrastructure

If Council's infrastructure is damaged during the course of works, Council's Development Engineer must be notified and necessary repairs must be undertaken within the time stipulated by Council, to Council's specifications, and at no cost to Council. Works generally must be in accordance with the relevant clauses of the current edition of AUS-SPEC.

If work is not undertaken to the satisfaction of the Development Engineer with regard to time or quality, Council may carry out remedial works and deduct the cost from the Damage Security Deposit.

49. Footpath levels

The existing footpath level and grade at the street alignment of the property must be maintained. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawing RF2. There may be occasions where both these requirements conflict and you are required to carefully check the driveway/garage slab and footpath levels for any variations.

Where this is the case an “Application to carry out works in a public road” available from Council's website <http://www.woollahra.nsw.gov.au> must be completed with plans/sections complying with the above and submitted to Council's Customer Service Centre and approved by Council prior to the issue of a Construction Certificate. For any technical enquiries regarding alteration to existing footpath levels, alignments or inspections, please contact Council's Works Supervisor on 9391 7982.

Note: Any adjustments required from the garage slab and the street levels are to be carried out internally on private property

50. Protection of services

Prior to any excavation works, the location and depth of all services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The developer must meet all costs of any adjustment, relocation or reinstatement of any services.

51. Road Opening Permit

Prior to the commencement of any excavation in Council controlled roadways or footpath areas, the developer must obtain a road opening permit from Council's Customer Services Counter. Restoration of roads, footpaths, retaining walls, kerbs and gutters must be carried out in accordance with the relevant clauses of the current edition of AUS-SPEC.

52. Support for Council roads, footpaths, drainage reserves, etc

Council property adjoining the construction site must be fully supported at all times during all excavation, demolition and building construction works. Details of shoring, propping and anchoring of works adjoining Council property, prepared by a qualified Structural Engineer or Geotechnical Engineer, must be submitted for the approval of Council's Development Engineer, or certified as structurally adequate by the accredited certifier, before the commencement of the works.

Backfilling of excavations adjoining Council property, or any void remaining at completion of construction between the building and Council property, must be fully compacted prior to release of the Damage Security Deposit.

53. Ground anchors

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

Temporary ground anchors may be permitted, 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. Approval may be granted subject to conditions of consent. Four weeks should be allowed for assessment.

54. Storage of materials and plant on Council's footpath

Building, excavation or demolition materials and plant must not be stored on Council's footpath and/or roadway unless prior written approval has been obtained from Council's Development Engineer.

55. Public footpaths

A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footpaths fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers and in accordance with the relevant clauses of the current edition of AUS-SPEC.

Where circulation is diverted on to the roadway clear directional signage and protective barricades must be installed in accordance with Aust AS1742-3 1996 "*Traffic Control Devices for Work on Roads*".

If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may carry out remedial works and deduct the cost from the Damage Security Deposit.

56. Vehicular access and garaging

Driveways and access ramps must be designed not to scrape the underside of cars. In all other respects, proposed garage/car park/basement car park, driveways and access ramps must be designed to comply with Australian Standard AS 2890.1 – "Off-Street car parking."

57. Corner sight distance

To provide adequate sight distance for vehicles at the intersection of New South Head Road and Cranbrook Road, the proposed fence is to be set back to provide for a corner splay. The triangular splay is to have minimum dimensions of 2m x 2m back from the boundary intersection. These areas are to be kept clear of obstructions to improve visibility.

58. Landscaping near Driveways

The walls/landscaping on either side of the driveway must not exceed one metre in height for a distance of two metres from the property boundary. This is to ensure that the sight distance available to drivers exiting the property is sufficient to alert them of oncoming vehicles and/or pedestrians.

59. Car park signage

Signage must be installed at the car park entry to warn pedestrians of vehicles exiting the car park. Further signage must be installed near the car park exit to warn drivers of the presence pedestrians using the footpath.

60. Use of visitor parking spaces

An intercom system and all necessary signage must be provided to inform and enable visitors to use the designated visitor spaces inside the car park. The visitor spaces must be clearly signposted in the car park and notification of their existence and location must be provided at the property entrance.

61. Driveway access to carpark

The driveway must accommodate two-way traffic. Alternatively, a traffic signal system as prepared by Parking Consultants International P/L dated 6 Feb 2006 and plans PCI-DA03, 04, 05-V1 dated Feb 05 must be installed on the driveway to ensure that vehicles do not reverse out on to the street or into the subject property. Subject to the following amendment:

- A minimum of 2 spaces (a queuing distance of 12m) is to be provided inside the development by relocating the proposed stop line further inside the property. The applicant is to investigate this and any alternative methods to provide additional queuing space to ensure that the impact on the surrounding road network is minimised.

The revised vehicular access detail must be submitted and approved by the Accredited Certifier prior to the issue of the Construction Certificate.

62. Dilapidation Reports for existing buildings/structures

Dilapidation surveys must be conducted and dilapidation reports prepared by a *professional engineer* (structural) of all buildings/structures on land whose title boundary abuts the site and of such further buildings/structures 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):

- a) 597 New South Head Road, Rose Bay
- b) 3 Cranbrook Road, Rose Bay

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/structure 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.

A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council.

63. Compliance with recommendations of the geotechnical and hydrogeological report

The construction methodology, testing and excavation works associated with the development must be undertaken in accordance with the recommendations of the Geotechnical and Hydrogeological Report by Jeffery & Katauskas P/L Ref :15734S2rpt dated 5 November 2004

64. Vibration during Construction

Vibration during construction can adversely affect surrounding property and infrastructure. Construction techniques including, but not limited to, rock breaking, ripping, and/or the installation of sheetpiles, may produce ground vibrations.

Prior to the issue of the Construction Certificate, the applicant must submit to the Accredited Certifier details of the proposed Vibration Monitoring Program to ensure that vibration created by the method of construction does not adversely impact on the existing building, surrounding property and infrastructure. A qualified and practising geotechnical and/or hydrogeological engineer must prepare the Vibration Monitoring Program and undertake all associated investigations. Details to be included in Vibration Monitoring Program to include:

- a) pre-set acceptable limits for the variation of:
 - i) settlement
 - ii) deflection or movement of retaining mechanisms such as shoring and bracing and
 - iii) vibration in accordance with AS 2187.2 1993 Appendix J, including acceptable velocity of vibration.
- b) the location and type of monitoring systems to be used
- c) recommended hold points to allow for inspection and certification by a geotechnical engineer and
- d) a contingency plan should the pre-set acceptable limits be exceeded.

65. Certification of Vibration Monitoring

A record of inspections and monitoring of vibration in accordance with the Vibration Monitoring Program must be submitted in a report form to the Accredited Certifier prior to release of the Certificate of Occupancy or final building inspection as appropriate. A qualified and practising geotechnical and/or hydrogeological engineer must prepare certification.

66. Hydrogeological and Geotechnical Monitoring Program

Excavation works associated with the proposed development must be overseen and monitored by a qualified and practising geotechnical engineer. A Hydrogeological and Geotechnical Monitoring Program must be produced to ensure that all geotechnical matters are regularly assessed during the construction to prevent adverse effects resulting from the excavation.

The Hydrogeological and Geotechnical Monitoring Program for the construction works must be in accordance with the recommendations of the Geotechnical and Hydrogeological Report by Jeffery & Katauskas P/L Ref :15734S2rpt dated 5 November 2004

Prior to the issue of a Construction Certificate, the applicant must submit to the Accredited Certifier details of the proposed Hydrogeological and Geotechnical Monitoring Program. A suitably qualified and practising geotechnical engineer must prepare the Program which must consist of the following;

- Recommendations as contained within the Geotechnical and Hydrogeological Report by Jeffery & Katauskas P/L Ref: 15734S2rpt dated 5 November 2004.
- Recommended hold points to allow for inspection by a geotechnical engineer during the following construction procedures;
 - Excavation of the site (face of excavation, base, etc)
 - Installation and construction of temporary and permanent shoring/ retaining walls.
 - Foundation bearing conditions and footing construction.
 - Installation of sub-soil drainage.
 - Hydrogeological Report by Geotechnical Report by Jeffery & Katauskas P/L Ref :15734S2rpt dated 5 November 2004
- Location, type and regularity of further geotechnical/hydrogeological investigations and testing.

67. Compliance with the Hydrogeological and Geotechnical Monitoring Program

Excavation and construction works must be undertaken in accordance with the “Geotechnical and Hydrogeological Monitoring Program” submitted as required by condition of consent.

A qualified and registered geotechnical engineer shall provide certification to the Accredited Certifier that all earth works have been carried out;

- In accordance with the Hydrogeological and Geotechnical Monitoring Program.
- In accordance with the relevant Australian Standards and Codes of Practise.
- In a manner that does not compromise the structural integrity of all adjacent structures, property and infrastructure.

The certification and a complete record of inspections, testing and monitoring (with certifications) must be submitted in report form to the Accredited Certifier for approval, prior to the issue of a Final Building Certificate.

68. Temporary Construction Dewatering Licence

Licences under Part V of the Water Act 1912 are required from the Department of Natural Resources (DNR) for the works (pumping from an excavation or from spearpoints around the perimeter of the construction site), for purposes of temporary dewatering as part of proposed construction at 599-601 New South Head Road, Rose Bay. DNR requires the applicant to comply with the following conditions

1. An application should be completed on the prescribed form for the abovementioned purpose and a licence obtained from the DNR prior to the installation of the works. A plan drawn to scale will be required with the application clearly identifying the location of the dewatering installations and incorporating the following conditions.

2. Specific Conditions

- a. The design of the structure must preclude the need for permanent dewatering.
- b. The design of the structure that may be impacted by any watertable must require a water proof retention system (i.e. a fully tanked structure) with adequate provision for future fluctuations of watertable levels. (It is recommended that a minimum allowance for a watertable variation of at least +/- 1.0 metre beyond any expected fluctuation be provided). The actual water table fluctuation and fluctuation safety margin must be determined by a suitably qualified professional.
- c. Construction methods and material used in and for construction are not to cause pollution of the groundwater.
- d. Monitoring of groundwater levels is to be continued at least weekly during the construction stage and at least weekly over a period of at least 2 months following cessation of dewatering, with all records being provided to DNR on expiration of the licence. This requirement is only for sites where the proposed structure shall extend greater than one floor level into the existing ground level.
- e. Groundwater quality testing must be conducted (and report supplied to DNR). Samples must be taken prior to the commencement of dewatering, (and ongoing to the satisfaction of DNR for both extraction and reinjection activities, if required). Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.
- f. Discharge of any contaminated tailwater **that is not to be reinjected**, must satisfy all requirements of any controlling authority (i.e. DEC, Council and Sydney Water). The method of disposal of excess tailwater (i.e. street drainage to the stormwater system or discharge to sewer) and written advice from the relevant controlling authority, indicating that the proposed/actual quality of tailwater is acceptable, must be presented to DNA and the consent authority.
- g. Discharge of any contaminated tailwater, **if reinjection is proposed**, must satisfy all requirements of DEC and DNA. The quality of any tailwater reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site. The following must be demonstrated in writing:
 - The treatment to be applied to the tailwater to remove any contamination.
 - The measures to be adopted to prevent redistribution of any contaminated groundwater.
 - The means to avoid degrading impacts on the identified beneficial use of the groundwater.

Written advice from DEC indicating their approval for the methodology of handling and treating the groundwater.

- h. Written advice be provided from the Certifying Authority to Department of Natural Resources to certify that the following ground settlement issues have been addressed in reports submitted by the proponent:

- Assessment by a suitably qualified geotechnical professional that the proposed dewatering activity does not pose an unacceptable risk of off-site impacts such as damage to surrounding buildings or infrastructure as a result of differential sediment compaction and surface settlement during and following pumping of groundwater.
- Settlement monitoring activities to be undertaken prior to, during and for the required period of time following the dewatering pumping to confirm the impact predictions.
- Locations of settlement monitoring points, and schedules of measurement.

All dewatering must be consistent with and are to comply with the requirements of:

- Councils document, “*Guidelines for Preparation of Geotechnical and Hydrogeological Reports*” and
- the recommendations made in the Geotechnical and Hydrogeological Report by Jeffery & Katauskas P/L Ref :15734S2rpt dated 5 November 2004
- Letter for Temporary Groundwater Dewatering Activity by Department of Natural Resources (DNR) dated 13 November 2006
- Response to DNR requirement by Morrison Design Partnership Architects and revised Groundwater Control Report by Ian Young & Assoc Engineers dated February 2006 and revised March 2007
- Response to DNR requirement by Morrison Design Partnership Architects and revised Groundwater Control Report by Ian Young & Assoc Engineers dated February 2006 and revised March 2007
- The condition of this consent titled “**Disposal of site water during construction**”

All relevant details required must be submitted to the Accredited Certifier prior to issue of the Construction Certificate.

69. Dewatering Compliance

The Dewatering requirements must be implemented prior to excavation of the site. All controls within the Plan must be maintained at all times. A copy of the requirements must be kept on site at all times and made available to the accredited certifier and Council officers on request.

A record of inspections, monitoring and maintenance activities in accordance with the Dewatering Plan must be submitted in report format. A qualified and practising geotechnical and/or hydrogeological engineer must prepare certification that all controls and activities have been maintained. The inspection/ monitoring records and certification must be submitted to the Accredited Certifier prior to release of the Occupation Certificate.

70. Certification of tanked construction of Proposed Basement level

The basement garage is located below the existing groundwater level and therefore has the potential to be inundated by the inflow of groundwater. This may cause adverse affects to the development and neighbouring property due to the drop in groundwater levels surrounding the property and may result in the basement level becoming flooded due to the failure of mechanical drainage systems. To prevent such occurrences, the basement must be designed and constructed as a “Tanked” structure to prevent the inflow of groundwater.

The engineer responsible for the design and construction of the basement garage must provide certification stating that the design, selection of construction materials, method of construction and any maintenance procedures have been selected so as to prevent the inflow of groundwater for a minimum service life of 100 years.

71. Provision of an Electricity Sub-Station

An electricity sub station may be required on the site. If required, the owner shall dedicate to the appropriate energy authority, 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 reserve.

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. The Principal Certifying Authority must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

72. Consolidation of Allotments

Prior to the Occupation Certificate a final Plan of Survey prepared and certified by a Registered Surveyor must be submitted and approved by the Accredited Certifier showing the consolidation of the 3 lots into a single lot.

A new deposited plan of the consolidated lot must be registered at the Land Titles Office and a copy provided to Council with copies of certificates of title, prior to the issue of the Occupation Certificate.

73. 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.

74. Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the *Regulation* requires compliance with the *BCA*. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the *Construction Certificate* application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).

75. Waste Storage – Mixed Developments (both commercial and residential)

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

- a) the storage of waste and recycling bins behind the building line or within non-habitable areas of the building,
- b) two separate centralised waste and recycling rooms or areas, one for commercial waste and one for residential waste. They must be self-contained and have separate keys and locking systems.
- c) the path for wheeling bins between the waste and recycling storage area and the collection point must be free of steps and kerbs and having a maximum grade of 1:8. The waste storage area must be as close as possible to the service road collection point.
- d) bins to be stored with lids down to prevent vermin from entering the waste containers.
- e) smooth impervious floor graded to a floor waste and provided with a tap and hose to facilitate regular cleaning of the bins. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water.
- f) walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter.
- g) the garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use.
- h) Odour problems must be minimised by exhaust ventilation.
- i) Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room.

- j) Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay.

76. Acoustic Certification of Mechanical Plant & Equipment

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a *professional engineer* (acoustic engineer) certifying that noise from the operation of mechanical plant and equipment will not exceed the background noise level when measured at any boundary of the site.

Where sound attenuation is required this must be detailed.

Note: Further information including lists of Acoustic Engineers can be obtained from:

1. **Australian Acoustical Society**—professional society of noise-related professionals ([www.acoustics.asn.au /index.php](http://www.acoustics.asn.au/index.php)).
2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals (www.aaac.org.au).

77. Food Premises – Construction Certificate Plans & Specifications

The person with the benefit of this consent must submit to Council details for the construction and fit out of food premises. Such details must demonstrate compliance with the *Food Act 2003*, *Food Regulation 2004*; the *Food Standards Code* as published by Food Standards Australia and New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises*.

No *Construction Certificate* relating to the construction or fitout of food premises must be issued until Council's Environmental Health Officers' have advised in writing that the plans and specification are considered satisfactory.

The details for the construction and fit out of food premises, as considered satisfactory by Council's Environmental Health Officers' must form part of any *Construction Certificate*.

Note: The assessment of food premises fitout plans and specifications is subject to an adopted fee. The construction and fitout of food premises is not listed under clause 161 of the *Environmental Planning & Assessment Regulation 2000* as a matter that a *Certifying Authority* may be satisfied as to. Hence, the detailed plans & specifications must be referred to Council and be to Council's satisfaction prior to the issue of any *Construction Certificate* for such works.

78. Food Premises – Construction & Fitout

The *principal contractor* or *owner builder* must ensure that all construction and fitout of the food premises complies with the details for the food premises submitted to and considered satisfactory by Council's Environmental Health Officers but no less compliant than with the *Food Act 2003*, *Food Regulation 2004*; the *Food Standards Code* as published by Food Standards Australia and New Zealand and AS 4674-2004: *Construction and fit out of food premises*.

This condition has been imposed to protect public health and ensure that food premises are easily maintained in a clean condition fit for food preparation and consumption.

79. Food Premises - Inspection and Registration

Prior to the issue of any *Occupation Certificate* or occupation or use of any food premises:

- a) the *Principal Contractor* or *owner* must arrange an inspection of the fit out of the Food Premises by Council's Environmental Health Officer;
- b) a satisfactory final inspection must have been undertaken by Council's Environmental Health Officer; and
- c) the *owner* or *occupier* must have registered the Food Premises (Notification of conduct under section 100 of the *Food Act 2003*).

Note: Notification can be done on-line at www.foodnotify.nsw.gov.au

Note: Inspections are subject to payment of the adopted inspection fee.

Note: Section 100 of the *Food Act 2003* requires:

“100 Notification of conduct of food businesses

(1) The proprietor of a food business must not conduct the food business unless the proprietor has given written notice, in the approved form, of the information specified in the Food Safety Standards that is to be notified to the appropriate enforcement agency before the business is conducted. Maximum penalty: 500 penalty units in the case of an individual and 2,500 penalty units in the case of a corporation.”

Note: *Accredited Certifiers* are unable to issue *Compliance Certificates* in relation to compliance with the *Food Act 2003*, *Food Regulation 2004*; the Food Standards Code and the Australian Standard AS 4674-2004: *Construction and fit out of food premises*; since these are not matters which an *Accredited Certifier* can be satisfied in relation to under Clause 161 of the *Regulation*. This condition can only be satisfied following an inspection and sign off from Council's Environmental Health Officers.

80. Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*.

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

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) published by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

Community Justice Centres—free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).

Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).

New South Wales Government Legislation home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* (www.legislation.nsw.gov.au).

Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au/index.php).

Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).

Department of Gaming and Racing - (www.dgr.nsw.gov.au).

81. Inspection, Certification and Registration of Regulated Systems

Prior to the issue of any *Occupation Certificate* or occupation or use of part of the building serviced by a *regulated system* the *principal contractor* or *owner builder* must submit to the satisfaction of PCA certification by a '*competent person*' that the regulated system as installed can operate as required by Clause 9 of the *Public Health (Microbial Control) Regulation, 2000*.

The owner must register the regulated systems with Council and provide the PCA with evidence of registration pursuant to Clause 15 of the *Public Health (Microbial Control) Regulation, 2000*.

Note: *Regulated System* has the same mean as in the Public Health Act 1991.

Note: *Competent person* has the same meaning as in Clause 9(3) of the *Public Health (Microbial Control) Regulation, 2000*.

Note: The NSW Code of Practice for the Control of Legionnaires' Disease can be down loaded free from: http://www.health.nsw.gov.au/pubs/2004/pdf/legionnaires_disease.pdf

82. Photographic archival 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:
 - (i) each elevation,
 - (ii) each structure and landscape feature;
 - (iii) internal or external details if nominated in Council's heritage officer's assessment report; and
 - (iv) 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.

83. Requirement for a Construction Certificate

In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979*, the erection of the building must not be commenced until:

- (a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) Council; or
 - (ii) an accredited certifier; and
- (b) a principal certifying authority (PCA) has been appointed and the Council has been notified in writing of the appointment, and
- (c) at least two days notice, in writing, has been given to Council of the intention to commence work.

84. Levels

For the purpose of indicating relative levels in terms of Australian Height Datum and boundary clearances, and to ensure that building construction complies with the development consent, survey certificates must be provided to the PCA in respect of the building/s layout and ground floor level/s prior to pouring of concrete or laying of timber floor boards.

85. Materials

Details of the colour, texture and substance of all external materials must be submitted to Council or the accredited certifier prior to the issue of a Construction Certificate and are to be to the satisfaction of an authorised Council assessment officer or the accredited certifier.

86. Structural details

Structural engineering details and design calculations, prepared and certified by a qualified practising Structural Engineer, must be submitted with Construction Certificate application, for all reinforced concrete work, structural steel work, retaining walls, brick fences, shoring and underpinning, isolated piers, chimneys, parapets and other structural members. This condition is imposed to ensure the structural integrity of the proposed building work.

87. Demolition, excavation and construction hours

Demolition, excavation and construction work must not take place outside the hours of 7.00am to 5.30pm Monday to Friday and 7.00am to 1.00pm Saturday. No work and no deliveries are to take place on Sundays and public holidays. Noise from construction activities associated with the development must comply with the guidelines contained in the NSW EPA *Environmental Noise Control Manual* Chapter 171.

88. Machine excavation

Excavation or removal of any materials involving the use of machinery of any kind, including compressors and jack hammers, must be limited to between 9.00am and 4.00 pm Mondays to Fridays, with regular breaks of 15 minutes each hour. This condition is imposed to ensure reasonable standards of amenity for occupants of neighbouring properties.

89. Building Inspections

The Applicant, Owner and Builder, jointly and severally, must ensure that they call their Principal Certifying Authority ("the PCA") to carry out such critical phase building inspections required by the PCA, the PCA Service Agreement and that the PCA is satisfied with the level of compliance achieved before the Builder proceeds to the next phase of construction. Ample notice of required inspections must be given to the PCA in accordance with the PCA Service Agreement. The Applicant, Owner and Builder must comply with the PCA Service Agreement (Service Contract) and any lawful direction given by the Principal Certifying Authority.

Note: It is the responsibility of the PCA to ensure that critical phase building inspections are undertaken in accordance with a PCA Service Agreement and issue to the Applicant, Owner and Builder appropriate Notice under Section 109L of the Environmental Planning & Assessment Act 1979 ("the Act") where any breach of this consent occurs. Failure of the PCA to issue such notice may result in Council taking action under Section 109V of the Act. Failure of the Applicant, Owner and Builder to comply with a PCA Service Agreement and comply with lawful directions of the PCA under this condition may result in Council issuing fines, notices, orders and commencing legal proceedings. Council will only enter into PCA Agreements with the Owner of the land being developed. Council, if appointed as the PCA, will report to the owner of the land being developed.

90. Occupation of premises

The premises must not be occupied prior to the issue of an Occupation Certificate.

91. Compliance Certificate from Sydney Water

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.

Following application, a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to Council or the accredited certifier prior to the issue of an occupation or subdivision certificate.

92. Compliance with Building Code of Australia

- (a) All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.
- (b) This condition does not apply to the extent to which an exemption is in force under Clause 187 or 188, of the *Environmental Planning and Assessment Regulation 2000*, subject to the terms of any condition or requirement referred to in Clause 187 (6) or 188 (4) of the Regulation.

93. Wet areas

All floors of wet areas are to be constructed and finished so as to be impervious to water and graded to a sufficient number of floor drains.

94. Fire safety

A schedule of all proposed safety measures within the building must be submitted to Council with or before the application for a Construction Certificate.

95. 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.

Note: 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.

96. Standard for demolition

All demolition work must be undertaken in accordance with the provisions of *Australian Standard AS2601-2001: The Demolition of Structures*.

97. Signs to be erected on building and demolition sites

- (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (i) stating that unauthorised entry to the work site is prohibited; and
 - (ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
- (b) Any such sign must be removed when the work has been completed.
- (c) This clause does not apply to:
 - (i) building work carried out inside an existing building; or
 - (ii) building work carried out on premises that must be occupied continuously (both during and outside working hours) while the work is being carried out.

98. Excavations and backfilling

- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

99. Protection of public places

- (a) If the work involved in the erection or demolition of a building:

- (i) is likely to cause pedestrian or vehicular traffic on a public place to be obstructed or rendered inconvenient, or
- (ii) building involves the enclosure of a public place;

a hoarding or fence must be erected between the work site and the public place.

- (b) If necessary, an awning must be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (c) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (d) Any such hoarding, fence or awning must be removed when the work has been completed.

Note: Prior to the erection of any hoarding, fence or the like on any footpath or other property owned or controlled by Council, permission must be sought and obtained from Council and the prescribed rental fee paid.

100. Support for neighbouring buildings

- (a) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - (i) must preserve and protect the building from damage; and
 - (ii) if necessary, must underpin and support the building in an approved manner; and
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (b) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- (c) In this condition, allotment of land includes a public road and any other public place.

101. Toilet facilities

- (a) Toilet facilities must 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.
- (b) Each toilet provided:
 - (a) must be a standard flushing toilet; and
 - (b) must be connected:
 - (i) to a public sewer; or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council; or

- (iii) 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.
- (c) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
- (d) 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 Regulation.

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.

102. Payment of Section 94A Levy

In accordance with Schedule 1 of the Woollahra Section 94A Contributions Plan 2005, a \$137,467 levy (1% of the total cost of works) is applicable. This levy is applicable to all development applications and will be used for a variety of community works as outlined in Schedule 2 of the Section 94A Contributions Plan.

To ensure that the value of 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.

103. Lighting

Any lighting on the site must be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting must comply with the *Australian Standard AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting*.

104. Compliance with Disability Discrimination Act

The development must be designed to comply with the requirements of the *Disability Discrimination Act* and AS 1428 – “*Design for Access and Mobility*”, Parts 1, 2, 3 and 4.

105. Layout of buildings

The layout of all external walls, including retaining walls and contiguous piling must be checked and verified by survey prior to the commencement of construction to ensure that building construction complies with the development consent and does not encroach beyond the boundaries of the site.

106. Retaining walls and drainage

If the soil conditions require it:

- (a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided; and
- (b) adequate provision must be made for drainage.

107. Provision of resident off-street car parking

In order to provide off-street car parking for residents, the 8 visitor car spaces are to be accessible to both residents and visitors. Such is to be indicated on the plans submitted with the Construction Certificate application.

D4 DA750/2005 – 779 New South Head Road, Rose Bay – Section 82A Review refusal of Development Application – 8/11/2006

Note: In accordance with Council's meeting procedures and policy this matter is referred to full Council due to the matter being called by Councillor Petrie for the reason of: considering the Development Application and retention of existing signs identified in the report to assist in fostering business in the Rose Bay Village shopping precinct. (See **Item R1**)

D5 DA302/2006 - 30 Alma Street, Paddington (aka White City) – New playing field for Sydney Grammar School with associated car parking & landscaping & land remediation – 26/5/2006

Note: In accordance with Council's meeting procedures and policy this matter is referred to full Council due to the matter being called by Councillor Gardner for the following reasons:

1. The proposed change of use of the White City Tennis Land by the demolition of eight (8) lawn tennis courts and five (5) hard courts and the replacement with a soccer/cricket field is of considerable importance to the community and should be debated by all Councillors.
2. Particular attention should be paid to the Draft DCP, which is now on exhibition, in relation to the propose elimination of the heritage significant lawn courts, the traffic implications due to intensification of use, public access to the northern side of the channel, and contamination issues of the site. (See **Item R2**)

D6 DA632/2006 – Section of New South Head Road footpath adjacent to 624-634 New South Head Road, Rose Bay – Footway restaurant consisting of ten (10) tables & twenty (20) chairs – 25/9/2006

Note: Late correspondence was tabled by Dr Jacqueline Morgan.

Note: Mr Harvey Sanders of Design Collaborative, Planning Consultant on behalf of the Body Corporate of the Wintergarten, objectors of 614 New South Head Road Rose Bay and Dr Jacqueline Morgan, as Chairman of 626 New South Head Road, Rose Bay objector of 2 Marine Parade Watsons Bay, and Mr John Stitt, objector of 5/614 New South Head Road, Rose Bay objector and Mr Richard Hall of Arc8 Projects and Mr Len Friedland on behalf of the Applicant addressed the Committee.

Note: The Committee amended Condition No. 2 (Configuration of footway restaurant/reduction to the number of seats).

(Excell/Petrie)

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

THAT the Council, as the consent authority, grant development consent to Development Application No. 632/2006 for a footway restaurant outside the restaurant at 624-634 New South Head Road, Rose Bay, subject to the following conditions:

1. Approved Plans

This consent relates to the work, shown in colour, on the plan numbered D51, Issue D, dated 28 March 2007, drawn by Arc8 Projects and which carries a Council stamp “**Approved DA Plans**” and the signature of a Council officer, except where amended by the following conditions.

2. Configuration of footway restaurant/reduction to the number of seats

In accordance with Section 6(d) of the Woollahra Footway License Policy and Procedures and in order to ensure an unobstructed footpath width of 1.8m for pedestrians, tables 1, 2, 3, 6, 7 and 8 (as described from west to east along the footpath) are to be deleted.

In order to maintain unobstructed footway access for pedestrians, the northern sides of four (4) remaining tables are to be positioned flush with the southern elevation of the building and tables 4 and 5 are to be positioned so as to ensure an unobstructed footpath width of 1.8m for pedestrians calculated from the pram ramp. Each table is limited to a maximum width of 0.6m and is to have a maximum of two (2) chairs; one positioned at each of the eastern and western sides of the tables. A minimum unobstructed path of pedestrian access between the southern side of each table/chair and the roadway (or any other traffic meter box, traffic light, tree or road sign) of 1.8m is to be maintained at all times. To ensure the above, the position of all four (4) tables is to be clearly delineated on the footpath via the provision of markings.

3. Roads and Traffic Authority requirements

The following restrictions applied by the Roads and Traffic Authority are applicable to the footway seating

- all items are not to be fixed structures and being stored away at the close of business
- a clear zone is to be maintained from the travel lane to the footpath dining where protection is not provided (see attached RTA Road Design Guide extract). The width of the clear zone varies according to the speed and volume of traffic on the street. The clear zone may include the parking lane if it is always a parking lane. Where clearway or 'no parking' restrictions apply even for a short period of the day the clear zone must be measured from the kerb
- clearance widths for pedestrians should be maintained in accordance with Austroads Part 13 with additional allowance made for transverse movements by staff and customers. Pedestrians should not be forced on to the road carriageway by footway restaurants or other non-permanent items on the footpath.
- proof of current liability and indemnity insurance to \$20 million is required. The insurance is to be extended to include the RTA being indemnified against any action that could result in litigation following any accident involving an errant motor vehicle colliding with these proposed footpath dining structures.
- all works associated with the development are to be at no cost to the RTA.

4. Health requirements

The footpath seating must adhere to the following requirements: -

- no dogs or other animals, except a dog that is an assistance animal being used bona fide by a person with a disability to assist the person, shall be permitted within the proposed external area where food is being consumed by patrons
- no food preparation shall be permitted within the proposed external area. All foods and beverages shall be prepared within the kitchen and bar area
- sanitary facilities being made available for both male and female customers in accordance with Part F2.3 of the Building Code of Australia
- no amplified music, speakers or the like shall be permitted or positioned for use of the outdoor dining area
- the use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the Protection of the Environment Operations Act 1997

5. Licence Agreement

The applicant is to ensure that the following requirements are satisfied prior

- development consent only gives approval to the use. Prior to any footpath seating or tables being installed, the Applicant must first complete a Section 125 Roads Act approval form (available from customer services). A fee is payable as prescribed by Council's adopted fees and charges
- the Applicant must then arrange to enter into a license agreement with Council to use the footpath area. A maximum term of 7 years is available

- the proposed footpath dining must at all times comply with the standards contained in Woollahra Municipal Council Footpath Restaurant Code (as amended). This condition has been imposed to ensure the objectives of this code are maintained at all times
- the licence agreement sets out the terms and conditions under which that use may be carried out, in addition to the following: -
 - at all times, the tables and chairs must be arranged strictly in accordance with any DA 'approved' plan
 - the dimensions of the tables and seating installed in the footpath area must be in accordance with the dimensions shown on the approved plan
 - proposed tables and seating are to be fully removable and must not encroach onto neighbouring property frontages
- the licence will be subject to rent for use of the public footway, which will be calculated having regard to the proposed commercial activity and will be based on a valuations obtained by Council from an independent Valuer. Failure to pay the rent established by Council may result in termination of the licence
- the area to be occupied under the licence, and the dimensions of the tables and chairs on the footpath, must be strictly in accordance with the development consent and the dimensions shown on the approved plan. Occupation of areas outside the licence area or installation of more than the approved number of seats and tables may result in fines and or termination of the licence.

6. Conduct of business

The Licensee is to be responsible for the orderly conduct of the business and to ensure that the requirements of the Food Act and any other applicable legislation are fully met in the serving of food to the outdoor tables.

The Licensee will also be held responsible to ensure good conduct of patrons, the timely removal of waste to prevent littering and that noise is kept to a minimum. No music is permitted. Lighting for evening use is to be erected only with development consent and is to be so installed as to avoid nuisance to neighbouring premises. Failure to meet these conditions may result in fines and/or termination of the Licence.

7. Facilities for waste storage and collection

Details of facilities for waste storage and collection must be submitted to the accredited certifier prior to issue of a Construction Certificate. For the commercial component, the waste storage room must be sufficiently sized so as to satisfy Council's Trade Waste requirements.

8. Hours of use of footpath

The footpath seating must not be located on the footpath outside the hours of operation applying to the restaurant.

9. Compliance with Disability Discrimination Act

The development must be designed to comply with the requirements of the *Disability Discrimination Act* and AS 1428 – "*Design for Access and Mobility*", Parts 1, 2, 3 and 4.

D7 DA573/2006 – 42-42A Wolseley Road, Point Piper – Demolition of existing dwelling-house & residential apartment building & construction of a residential flat building comprising 5 units, 11 off-street car parking spaces, landscaping & siteworks – 6/9/2006

Note: In accordance with Council's meeting procedures and policy this matter is referred to full Council due to a substantive change of the recommendation of the Development Control Committee (approval) to the Officer's recommendation (refusal). **(See Item R3)**

D8 Register of Current Land and Environment Court Appeals for Building and Development Applications

Note: This item was considered after item D10.

**Motion moved by Councillor Excell
Seconded by Councillor Petrie**

That Item D8 be considered after Item D10.

The Motion was adopted.

(Petrie/Excell)

Resolved:

THAT the attached register of current Land and Environment Court Appeals for Building and Development Applications be received and noted.

D9 DA423/2005 – 1-3 Prospect Street, Paddington – Section 82A Review of refusal – 17/11/2006

Note: In accordance with Council's meeting procedures and policy this matter is referred to full Council due to the matter being called by Councillor Shoebridge for the reasons of:

1. Significant non-compliances with Paddington DCP;
2. Streetscape impact;
3. Compatability of finishes. **(See Item R4)**

D10 DA771/2004 Part 4 - 26 Latimer Road, Bellevue Hill – Review of Prospects Advice

Note: Mrs Kim O'Connor, objector of 131 O'Sullivan Road Bellevue Hill on behalf of her husband and her neighbour, Mrs N Awan, objector of 133 O'Sullivan Road, Bellevue Hill addressed the Committee.

(Boskovitz/Petrie)

That the Committee resolve into "Closed Session" with the press and public excluded for the review of Prospects Advice in accordance with the provisions of Section 10A(2)(g) of the Local Government Act 1993.

Adopted

IN CLOSED SESSION

(Petrie/Dawson)

That the Council proceed to Court and let the Court make the decision and request further that the Court go on site to make its decision and to hear from the applicants, objectors and the residents.

Adopted

(Dawson/Boskovitz)

That the Committee resolve to go back into Open Session

Adopted

IN OPEN SESSION

(Petrie/Dawson)

Resolved:

- A. THAT in relation to the appeal to the Land and Environment Court against Council's refusal to modify development consent to Development Application No. 771/2004 for alterations and additions to an existing residential flat building and garage/storage structure and landscaping works on land at 26 Latimer Road Bellevue Hill, the Development Control Committee resolve to proceed to Court proceedings and let the Court make the decision and request that the Court go on site to make its decision and to hear from the applicants, objectors and the residents.
 - B. THAT in accordance with Council's policy of confidentiality, the confidential report remain confidential for a period of six (6) months or until the conclusion of the appeal, which ever occurs last.
-

**Items with Recommendations from this Committee
Submitted to the Council for Decision (Items R1 to R4)**

R1 DA750/2005 – 779 New South Head Road, Rose Bay – Section 82A Review refusal of Development Application – 8/11/2006

Note: Councillor Comino declared his interest in this item as it involves an applicant who was a client of his partner and excused himself from the room and did not debate or vote on the matter.

Note: In accordance with Council's meeting procedures and policy this matter is referred to full Council due to the matter being called by Councillor Petrie for the reason of: considering the Development Application and retention of existing signs identified in the report to assist in fostering business in the Rose Bay Village shopping precinct.

Note: Mr Peter Poland, objector as President of the Woollahra History and Heritage Society and in the capacity of a Rose Bay resident, and Mr John Capos, objector as Rose Bay business proprietor, of Perfection Chocolates of 700 New South Head Road, Rose Bay addressed the Committee.

Note: The motion was silent as to whether the matter should be referred to the Manager Compliance to take appropriate action under Part 6 of the Environmental Planning and Assessment Act 1979 in accordance with Council's adopted Enforcement Policy in relation to the failure to gain development consent. This would normally be the closing recommendation.

**Motion moved by Councillor Petrie
Seconded by Councillor Boskovitz**

- A. THAT Council, as the consent authority, having considered the application for review of its determination, resolve to refuse to grant development consent to Development Application No. 750/2005 for advertising structure/advertisement on land at 759-779 New South Head Road Rose Bay because Council cannot lawfully grant retrospective development consent.
- B. That Council resolve not to take the any action seeking the removal of the additional signs identified in the report and that the signs be allowed to remain subject to the applicant lodging a Building Certificate application with Council within 28 days and that Building Certificate being issued.

**Amendment moved by Councillor Excell
Seconded by Councillor Dawson**

That the staff recommendation for refusal be adopted.

**The Amendment was put and lost.
The Motion was adopted.**

(Petrie/Boskovitz)

Recommendation: Pursuant to Section 82A of the Environmental Planning and Assessment Act, 1979

- A. THAT Council, as the consent authority, having considered the application for review of its determination, resolve to refuse to grant development consent to Development Application No. 750/2005 for advertising structure/advertisement on land at 759-779 New South Head Road Rose Bay because Council cannot lawfully grant retrospective development consent.
- B. That Council resolve not to take the any action seeking the removal of the additional signs identified in the report and that the signs be allowed to remain subject to the applicant lodging a Building Certificate application with Council within 28 days and that Building Certificate being issued.

R2 DA302/2006 - 30 Alma Street, Paddington (aka White City) – New playing field for Sydney Grammar School with associated car parking & landscaping & land remediation – 26/5/2006

Note: In accordance with Council's meeting procedures and policy this matter is referred to full Council due to the matter being called by Councillor Gardner for the following reasons:

1. The proposed change of use of the White City Tennis Land by the demolition of eight (8) lawn tennis courts and five (5) hard courts and the replacement with a soccer/cricket field is of considerable importance to the community and should be debated by all Councillors.
2. Particular attention should be paid to the Draft DCP, which is now on exhibition, in relation to the propose elimination of the heritage significant lawn courts, the traffic implications due to intensification of use, public access to the northern side of the channel, and contamination issues of the site.

Note: Mr Rolfe, objector , Mr Geoff Simpson, objector on behalf of the White City Tennis Club, Mr Lindsay Hunt for the applicant and Mr Peter Breeze, the School Bursar for Sydney Grammar School on behalf of the applicant addressed the meeting.

Note: The Committee amended Condition 1 (Approved Plans and supporting documents).

Motion moved by Councillor Excell

That the matter be called to a site inspection.

The Motion lapsed for want of a Secunder.

(Boskovitz/Petrie)**Recommendation: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979**

- A. THAT the Council, as the consent authority, grant development consent to Development Application No. 302/2006 for new playing field for Sydney Grammar School with associated car parking and landscaping and land remediation on land at 30 Alma Street, Paddington, subject to the following conditions:

1. 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)
DA1200 (Rev C)	Sport Pitches – White City: Plan	Gardner Wetherill Associates	11/4/2006
DA1201 (Rev B)	Plan – Roadway	Gardner Wetherill Associates	3/4/2007
DA1600 (Rev C)	Sport Pitches – White City: Site Sections	Gardner Wetherill Associates	11/4/2006
LCP.01/A	Landscape Plan	Narelle Sonter Botanica	18/4/2006
E20384F-RAP2	Revised Remedial Action Plan	Environmental Investigation Services	Sept 2006
Not available	Flood Impacts Assessment	Lyll & Associates Consulting Water Engineers	March 2006
Job No. 0502-0052 Dwg C02 (Iss E)	Sediment & Erosion Control Plan	LHO Group	March 2006
Job No. 0502-0052 Dwgs C00 & C01 (Iss E)	Stormwater disposal concept plan	LHO Group	March 2006
Not available	Sydney Grammar School Playing Field Development at White City – Riparian Vegetation Rehabilitation	---	21 Sept 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

2. 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:

a. Pedestrian Access

- There is to be no delineated footway along the access road from Alma Street across the site and the roadway is shared and appropriate traffic calming devices (e.g. humps) are put in place.

b. Entry gates from the parking area to the playing field

- The width of the two entry gates from the parking area must be enlarged to not less than 3m so as to allow easy pedestrian access.

c. Landscape

- The proposed screen planting on the southern and western side of the site is to be deleted and replaced by grass or vegetation growing to a maximum height of 500mm

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

3. Compliance with the Remedial Action Plan

1. The site is to be remediated and validated in accordance with the report prepared by Environmental Investigation Services dated September 2006 Report No: E20384F-RAP2. Prior to the execution of works associated with the built form of the development (excluding building work directly related to remediation). A Site Audit Statement is to be submitted to Council clearly indicating that the site is suitable for the proposed use. Conditions on the Site Audit Statement shall form part of the consent.
2. Any variations to the proposed Remediation Action Plan shall be approved in writing by the Accredited Site Auditor and Council prior to the commencement of such work.
3. Prior to the exportation of waste (including fill or soil) from the site the material should be classified in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW EPA Environmental Guidelines Assessment, Classification and Management of Liquid & Non Liquid Wastes 1998. The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporter if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or group (A) liquid waste advice should be sought from the EPA.

4. Notice of completion of category 1 remediation work

Pursuant to clause 17 of *State Environmental Planning Policy No 55 - Remediation of Land*, notice of completion of a category 1 remediation work must be given to the council within 30 days after the completion of the work

This notice must be in accordance with clause 18 of SEPP 55.

Note: Category 1 remediation work is defined in clause 9 of SEPP 55.

Standard Condition: D3

5. Walker Avenue Gate

All construction vehicles are to access the site via Walker Avenue during the construction period. Upon completion of construction works, the Walker Avenue Gate is not to be used for vehicular or pedestrian access to the subject site and is to remain closed at all time except for emergency and maintenance purposes.

6. Department of Nature Resources – General Terms of Approval

These conditions apply only to the works granted on this site, under the subject Development Application.

7. Department of Nature Resources – General Terms of Approval

Works are to be carried out in accordance with the plans presented to the Department of Natural Resources for the subject Development Application.

8. Department of Nature Resources – General Terms of Approval

All works proposed must be designed, constructed and operated to minimise sedimentation, erosion and scour of the banks or bed of the watercourse/foreshore and to minimise adverse impacts on aquatic and riparian environments.

9. Department of Nature Resources – General Terms of Approval

Erosion and sediment control measures are to be implemented prior to any works commencing at the site and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering the watercourse/foreshore environment. These control measures are to be in accordance with the requirements of Council, or the determining authority, and best to follow management practices as outlined in the Landcom manual "*Managing Urban Stormwater: Soils and Construction – Volume 1*" (4th Ed., 2004) - the "*Blue Book*".

10. Department of Nature Resources – General Terms of Approval

The Part 3A permit from the Department is issued for works on FREEHOLD land only. This Permit is null and void for any works on Crown Land.

11. Department of Nature Resources – General Terms of Approval

Rehabilitation of the area in accordance with the Part 3A permit conditions or any direction from the Department is the responsibility of the permit holder and owner or occupier of the land.

12. Department of Nature Resources – General Terms of Approval

If requested by the Department, work as executed survey plans of a professional standard and including information required by the Department shall be provided to the Department within 14 days of such request. (Note: the Department usually only invokes this condition in matters of contention).

13. Department of Nature Resources – General Terms of Approval

If, in the opinion of a Departmental officer, any work is being carried out in such a manner that they may damage or detrimentally affect the watercourse or foreshore or its environment, or damage or interfere with any thing not authorised to be so affected, such work shall cease immediately upon oral or written direction of such officer.

14. Department of Nature Resources – General Terms of Approval

If any Part 3A permit condition is breached, the Permit holder shall follow the Department's directions to address the breach and shall rehabilitate the Site as directed by, and to the satisfaction of, the Department.

15. Department of Nature Resources – General Terms of Approval

Site rehabilitation and maintenance is to be carried out in accordance with a Landscape Plan.

16. Department of Nature Resources – General Terms of Approval

Site riparian rehabilitation must:

- a. protect any remnant local native riparian vegetation at the Site wherever it is reasonably possible to do so, and
- b. *be consistent with :Sydney Grammar School Playing Field Development at White City: Riparian Vegetation Rehabilitation Plan, dated 21 September 2006 and the associated referenced locations in the Plan titled Sports Pitches – White City Project no.05039, Drawing No. DA 1200, Revision C and Sydney Grammar School Playing Field Development, White City Rose Bay: Vegetation Management Plan Principles, dated 30 October 2006.*

The areas so restored are to consist of a diverse range of native plant species local to the area and, unless otherwise specified in the Landscape Plan **established at 4 plants per square metre where there is no canopy vegetation.**

17. Department of Nature Resources – General Terms of Approval

The areas may be rehabilitated using a combination of methods, such as natural bush regeneration, brush matting, hydro-seeding, direct seeding or tubestock planting, provided the required densities and clear evidence of the plants' ability to survive are achieved by the end of the maintenance period.

18. Department of Nature Resources – General Terms of Approval

The rehabilitated areas must be maintained and monitored for a period of **at least two years** after final planting, or where other revegetation methods are used, **two years** after plants are at least of tubestock size and are at the densities required by these conditions and with species richness as described in a Landscape Plan. Maintenance must include sediment and erosion control, watering, weed control, replacement of plant losses, disease and insect control, mulching and any other requirements necessary for achieving successful vegetation establishment.

19. Department of Nature Resources – General Terms of Approval

There is to be no new building constructed within five (5) metres of the top of the bank on the north-eastern side of the channel, with the exception of the bridge crossing.

20. Part 3A Permit requirement for the Construction Certificate

The Construction Certificate will not be issued until a copy of the Part 3A Permit, issued by the Department of Natural Resources (DNR) has been provided to Council.

21. Condition imposed by RailCorp

The applicant shall provide details of the intended encroachment into the easement, or the use of RailCorp owned lands, for review and approval by RailCorp. All the RailCorp approved drawings and documentation must be provided for the application for a Construction Certificate.

22. Section 73 Compliance Certificate – Sydney Water Requirements

The developer will be required to obtain a Section 73 Compliance Certificate from Sydney Water. Issuing of the Certificate will confirm that the developer has met Sydney Water's Detailed requirement, which include:

- Correctly sized water and wastewater mains; extensions or amplifications to existing water and wastewater systems (if necessary);
- Building over/ adjacent to Sydney Water's existing water sewerage or stormwater infrastructure;
- Payment of Sydney Water charges; and
- The completion of any other requirements.

The developer will be responsible for funding any adjustments to Sydney Water infrastructure resulting from the development. Developers are advised to engage the services of a Water Coordinator (WSC) to obtain a Section 73 Certificate and manage the servicing aspects of their projects. Details are available from the Sydney Water Customer Centre on 13 20 92 or Sydney Water's website at www.sydneywater.com.au.

23. Existing trees which must be retained

The following trees are to be retained on the site and protected during all works.

Trees on Private Property

Council Reference No:	Species	Location	Dimension (Metres)
	As per Landscape by Botanica Dwg No. LCP.01/B Sheet 1 of 1 dated April 2006		

The Construction Certificate plans must include reference to the retention of the above mentioned trees and colour or shade them in the colour green for trees to be retained and yellow for trees to be transplanted.

24. Trees which may be removed

This consent includes approval under Council's Tree Preservation Order to remove the following trees:

Council Reference No:	Species	Location
	As per Landscape by Botanica Dwg No. LCP.01/B Sheet 1 of 1 dated April 2006	
B2	<i>Arbutus unedo</i> (Irish Strawberry Tree)	As per Landscape by Botanica Dwg No. LCP.01/B Sheet 1 of 1 dated April 2006
This tree is not indicated on the Landscape Plan	<i>Robinia pseudoacacia</i> cvs 'Black Locust' (Robinia)	Eastern side of existing playing field. Located in line of proposed drainage swale.

The Construction Certificate plans must include reference to the removal of the above mentioned trees and identify the trees by Council's reference number and colour or shade them in the colour red.

25. Replacement trees which must be planted

The following compensatory replacement plantings must be planted to ensure the preservation of the landscape character of the area.

Species/Type	Planting Location	Container Size or Size of Tree (@ time of planting)	Minimum Dimensions at Maturity
	As per Landscape by Botanica Dwg No. LCP.01/B Sheet 1 of 1 dated April 2006		

26. Tree Protection Zones

Tree Protection Zones are to be established as indicated in Tree Protection Plan (Appendix 1). The Tree Protection Zones are to comply with the following requirements;

- a. Tree Protection Zones are to be fenced with a 1.8 meter high chainmesh or weldmesh fence to minimise disturbance to existing ground conditions.
- b. Installation of all Tree Protection measures is to be at the direction of and overseen by a qualified Arborist (minimum Australian Qualification Framework Level 4 or recognised equivalent).
- c. 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.
- d. 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.
- e. Sediment control measures are to be installed around all Tree Protection Zones to protect the existing soil levels.
- f. The storage of materials, stockpiling, sitting of works sheds, preparation of mixes, cleaning of tools or equipment is not permitted within Tree Protection Zones.

- g. Earthworks shall not commence until temporary measures are installed.
- h. 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.

27. Hand excavation within tree root zones

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).

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

Council Reference No:	Species	Location	Radius from Trunk (Metres)
41	<i>Banksia integrifolia</i> (Coastal Banksia)	As per Landscape by Botanica Dwg No. LCP.01/B Sheet 1 of 1 dated April 2006	3

28. Level changes in the vicinity of trees

No level changes are to occur within the specified radius from the trunks of the following trees to allow for the preservation of their root zones.

Council Reference No:	Species	Location	Radius from Trunk (Metres)
41	<i>Banksia integrifolia</i> (Coastal Banksia)	As per Landscape by Botanica Dwg No. LCP.01/B Sheet 1 of 1 dated April 2006	5

An Arborist shall be present to supervise all works within a 5m radius of Tree 41.

29. Removal of Noxious Weeds

To prevent the spread of undesirable and invasive species and to ensure the preservation of urban bushland within the Municipality, all weeds identified within the *Noxious Weeds Act 1993* (Order No 7) and the following identified Woollahra Municipality bushland invasive plant species must be removed from the development site unless their retention is specified in previous conditions.

Common name	Scientific name
Alligator weed	<i>Alternanthera philoxeroides</i>
Bitou bush Boneseed	<i>Chrysanthemoides monilifera</i>
Black knapweed	<i>Centaurea nigra</i>
Blackberry	<i>Rubus fruticosus</i> (agg. spp.)
Broomrape	<i>Orobanche</i> spp.
Cabomba	<i>Cabomba</i> spp.
Castor oil plant	<i>Ricinus communis</i>

Green cestrum	<i>Cestrum parqui</i>
Harrisia cactus	<i>Harrisia spp.</i>
Hawkweed	<i>Hieracium spp.</i>
Horsetail	<i>Equisetum spp.</i>
Karoo thorn	<i>Acacia karroo</i>
Kochia	<i>Kochia scoparia</i>
Lagarosiphon	<i>Lagarosiphon major</i>
Lantana (Pink flowered)	<i>Lantana camara</i>
Lantana (Red flowered)	<i>Lantana camara</i>
Ludwigia	<i>Ludwigia peruviana</i>
Mexican feather grass	<i>Nassella tenuissima syn Stipa tenuissima</i>
Miconia	<i>Miconia spp.</i>
Pampas grass	<i>Cortaderia spp.</i>
Parthenium weed	<i>Parthenium hysterophorus</i>
Pellitory	<i>Parietaria judaica</i>
Prickly pears	<i>Opuntia spp.</i>
Rhus tree	<i>Toxicodendron succedaneum</i>
Salvinia	<i>Salvinia molesta</i>
Senegal tea plant	<i>Gymnocoronis spilanthoides</i>
Siam weed	<i>Chromolaena odorata</i>
Spotted knapweed	<i>Centaurea maculosa</i>
St John's wort	<i>Hypericum perforatum</i>
Water hyacinth	<i>Eichhornia crassipes</i>
Water lettuce	<i>Pistia stratiotes</i>
Willows	<i>Salix spp.</i>

30. 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.

31. 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 that the works as completed comply with this consent.

32. Maintenance of Landscaping

All landscaping must be maintained in accordance with the approved landscape plans. Any alteration from that plan will require the prior written consent of Council.

33. 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

34. 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.	\$28,000	No	T600
Infrastructure Works Bond - Completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.	\$12,500	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	\$13,000 + Index Amount	Yes, quarterly	T94

INSPECTION FEES			
under section 608 of the Local Government Act 1993			
Security Administration Fee	\$163	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$53,663 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?^[d1]

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^[d2]

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

35. 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:

Alma Street

- Full reconstruction of the existing driveway crossover fronting Alma Street. Width, boundary levels and ramp grades must match existing. The design and construction of the driveway crossing must comply with Councils standard drawing RF2.
- Reconstruction of the existing kerb inlet lintel over the stormwater pit adjoining the eastern side of the existing driveway crossover. The existing inlet lintel is inconsistent with Councils standards and of inadequate capacity and must be replaced. This may entail extending the grated inlet pending on a detailed design.

Walker Avenue

- Construction of a fully new concrete driveway crossing, 4.0 metres wide, fronting the site in Walker Avenue. Boundary levels must match existing. The design and construction of the driveway crossing must comply with Councils standard drawing RF2.
- Full reconstruction of the footpath fronting the site in Walker Avenue. The footpath must be designed and constructed in accordance with Councils Standard Specifications. Boundary levels must 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

36. 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

37. Professional Engineering Details

The *Construction Certificate* plans and specifications, required by clause 139 of the Regulation, must include detailed *professional engineering* plans and 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 specifications must be submitted to the *Certifying Authority* with the application for any *Construction Certificate*. Standard Condition: C36

38. 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

39. Flood Evacuation Plan

A Flood Evacuation Plan must be prepared and submitted for approval to Councils Drainage Engineer, prior to the issue of the *Construction Certificate*. This is to ensure the safety to users of the sports field and prevent damage to private property.

The Flood Evacuation Plan must;

- a) Provide a clear outline of events from the initial storm event to the peak flood period. This must include extent of flooding relative to the carpark area and time in which these events are expected to occur from the initial commencement of the storm event.
- b) Provide a evacuation methodology taking into account the expected number of users of the sports field and with respect to the timing of events outlined above.
- c) Proposed measures that will assist in evacuation of the site. These may include (but not be limited to)-
 - Signs identifying the potential for inundation of the site, identifying safe evacuation routes and periods in which these routes may be accessible;

- Depth markers at low points;
 - Electronic signalling devices.
- d) Any further information as requested by Councils Drainage Engineer that may arise pending on the measures proposed.

The plan must be prepared by a suitably qualified Drainage Engineer specialising in Flood and Overland Flow Analysis.

40. Dilapidation Reports for public infrastructure

To clarify the existing state of public infrastructure prior to the commencement of any development (including prior to any demotion), the *Principal Contractor* must submit a dilapidation report on Council's infrastructure within and near the development site. The scope of the dilapidation report should encompass the approved route for construction vehicles.

The dilapidation report must be submitted to Council prior to the commencement of any work and include:

- a. Photographs showing any existing damage to the road pavement fronting the site,
- b. Photographs showing any existing damage to the kerb and gutter fronting the site,
- c. Photographs showing any existing damage to the footway including footpath pavement fronting the site,
- d. Photographs showing any existing damage to retaining walls within the footway or road, and
- e. Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site.

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure prior to the commencement of any work. If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Principal Contractor fails to submit the dilapidation report required by this condition and damage is occasioned to public assets adjoining the site Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose.

Standard Condition: D5

41. 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.

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.

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

42. 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

43. 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

44. 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

45. 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, and
- (d) Noise controls.

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

Standard Condition: E11

46. 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

47. 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 downloaded free of charge from Council's website www.woollahra.nsw.gov.au
Standard Condition: E24

48. Existing drainage easement, drainage reserve or stormwater drainage system benefiting Council

Council drainage easement(s) drainage reserve(s) or stormwater system passes through the site. No building or other structure must be placed over the drainage easement or stormwater system or within the zone of influence taken from the invert of any pipe.

The *principal contractor or owner builder* must locate all *Stormwater Drainage Systems* without causing any damage to the public system and ensure its protection. The *owner, principal contractor or owner builder* must not obstruct or otherwise remove, disconnect or render inoperable the *Stormwater Drainage System*.

Works such as fences must not obstruct the natural floodway or alter the natural floodway in such a way as to direct or concentrate stormwater on to neighbouring properties.

Where the relocation or reconstruction of Council's drainage system is approved then 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: The Local Government Act 1993 provides:

"59A Ownership of water supply, sewerage and stormwater drainage works

(1) *Subject to this Division, a council is the owner of all works of water supply, sewerage and stormwater drainage installed in or on land by the council (whether or not the land is owned by the council).*

(2) A council may operate, repair, replace, maintain, remove, extend, expand, connect, disconnect, improve or do any other things that are necessary or appropriate to any of its works to ensure that, in the opinion of the council, the works are used in an efficient manner for the purposes for which the works were installed."

Standard Condition: E27

49. 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 execute 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

50. Commissioning and Certification of Public Infrastructure Works

The *principal contractor* or *owner builder* must submit, to the satisfaction of Woollahra Municipal Council, certification from a *professional engineer* that all public infrastructure works have been executed in compliance with this consent and with Council’s *Specification for Roadworks, Drainage and Miscellaneous Works* dated January 2003.

Standard Condition: F9

51. Traffic Signal System

To ensure there are no conflicting traffic flows on the vehicle access to the field, a traffic control system must be installed and operational prior to use of the field.

The control system must be designed by a suitably qualified Traffic Engineer and must satisfy the following requirements;

- The signals are to be clearly illuminated and visible to vehicles approaching the access.

- All queuing and standing areas associated with the signal system must be located within the site.
- Queue lengths are not to impose on vehicle manoeuvres in the White City Tennis parking area located at the southern end of the access.
- The signal system must be operational at all times.
- The signal system must default to vehicles entering from Alma Street so as to minimise queuing within this parking area.

Details concerning the design and operation of the traffic signal system must be submitted and approved by Councils Traffic Department prior to the issue of the *Construction Certificate*.

52. 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

53. Compliance with Flood Evacuation Plan

All controls and measures specified within the approved Flood Evacuation Plan plus any directives issued by Council's Drainage Engineer - must be installed and operational prior to the issue of the Final Occupation Certificate.

The installation of any such measures relying on the detection of flood levels must be overseen and certified by a suitably qualified Drainage Engineer, who must specify the device has been installed in accordance with any such manufacturers specifications and has been installed in a manner that will function as intended and with consideration for the environment it is to operate.

54. 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*.

AND

Alma Street

- Full reconstruction of the existing driveway crossover fronting Alma Street. Width, boundary levels and ramp grades must match existing. The design and construction of the driveway crossing must comply with Councils standard drawing RF2.
- Reconstruction of the existing kerb inlet lintel over the stormwater pit adjoining the eastern side of the existing driveway crossover. The existing inlet lintel is inconsistent with Councils standards and of inadequate capacity and must be replaced. This may entail extending the grated inlet pending on a detailed design.

Walker Avenue

- Construction of a fully new concrete driveway crossing, 4.0 metres wide, fronting the site in Walker Avenue. Boundary levels must match existing. The design and construction of the driveway crossing must comply with Councils standard drawing RF2.
- Full reconstruction of the footpath fronting the site in Walker Avenue. The footpath must be designed and constructed in accordance with Councils Standard Specifications. Boundary levels must match existing.

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

55. Positive Covenant & Works-As-Executed certification of stormwater systems

On completion of construction work, stormwater drainage works are to be certified by a *professional engineer* with Works-As-Executed drawings supplied to the *PCA* detailing:

- a. compliance with conditions of development consent relating to stormwater;
- b. that the works have been constructed in accordance with the approved design and attenuation in accordance with the submitted calculations;
- c. Pipe invert levels and surface levels to Australian Height Datum; and
- d. Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

Note: The required wording of the Instrument can be downloaded from Council's web site www.woollahra.nsw.gov.au. The PCA must supply a copy of the WAE Plans to Council together with the *Final Occupation Certificate*. The *Final Occupation Certificate* must not be issued until this condition has been satisfied. Standard Condition: H20

56. Provision of off-street Public and Visitor Parking

The owner and occupier, in compliance with AS/NZS 2890.1:2004: Parking facilities - Off-street car parking, must maintain unimpeded public access to off-street parking as follows:

Use	Number of required public spaces
Class 2 (Medium term parking)	75

Reason: This condition has been imposed to ensure adequate on site parking is maintained.
Standard Condition: I4

57. 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 be limited to):

- a) 22 Walker Avenue
- b) 24 Walker Avenue

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

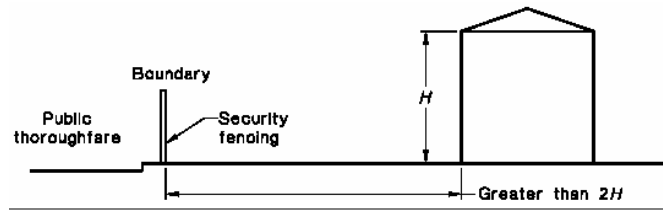
58. Construction Certificate required prior to any demolition

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*.

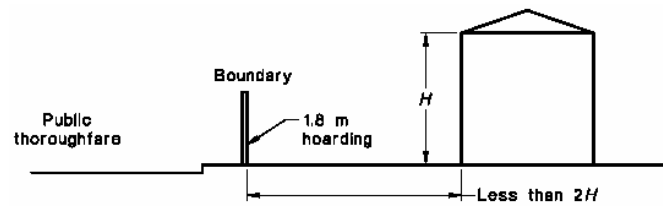
Note: See *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.
Standard Condition: B1

59. 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.

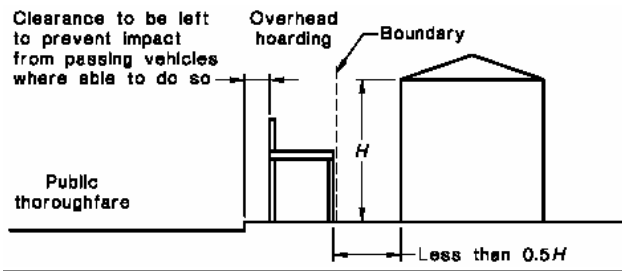


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either

- the vertical height above footpath level of the structure being demolished is less than 4.0 m; or
- 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

- extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
- 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
- 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/oheadprotstrucuts.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

60. 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

61. 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

62. 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

63. 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

64. 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

65. 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

66. 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 out side 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 down loaded 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

67. 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

68. 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
- c) 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

69. 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

70. 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

71. 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

72. 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

73. Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*.

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

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) published by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

Community Justice Centres—free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).

Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).

New South Wales Government Legislation home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* (www.legislation.nsw.gov.au).

Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au/index.php).

Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).

Department of Gaming and Racing - (www.dgr.nsw.gov.au).
Standard Condition: 150

- B. That negotiations commence as soon as possible with Sydney Grammar School to secure a Deed of Agreement for public access across the site, subject to:
- a) An agreed alignment through the SGS land;
 - b) The alignment through the leased SRA land beneath the viaduct (to be negotiated by Council with owner and lessee);
 - c) Public right-of-way across the bridge over the stormwater canal owned by Sydney Water;
 - d) Various specific terms dealing with the section across the SGS land, whether it be by easement or licence agreement, including but not necessarily limited to the following matters:-
 - i) Public liability and insurance;
 - ii) Hours of opening;
 - iii) Responsibility for security and supervision;
 - iv) Management during construction of the playing fields;
 - v) Financial responsibility for maintenance and repair;
 - vi) Vandalism;
 - vii) How to deal with unacceptable/illegal behaviour if unresolved; and,
 - viii) Dispute resolution.
- C. That negotiations commence as soon as possible with all necessary parties to achieve connecting rights of ways in appropriate locations across their lands.
- D. That a further report be brought back to the Development Control Committee for consideration of the preferred or different options for the location of the rights of ways.

R3 DA573/2006 – 42-42A Wolseley Road, Point Piper – Demolition of existing dwelling-house & residential apartment building & construction of a residential flat building comprising 5 units, 11 off-street car parking spaces, landscaping & siteworks – 6/9/2006

Note: In accordance with Council's meeting procedures and policy this matter is referred to full Council due to a substantive change of the recommendation of the Development Control Committee (approval) to the Officer's recommendation (refusal).

Note: Ms Madeline Mansfield, architect for the applicant addressed the meeting.

Motion moved by Councillor Excell

That the application be refused.

The Motion lapsed for the want of a Seconder

(Boskovitz/Excell)

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

THAT Council, as the consent authority, grant development consent to Development Application No. 573/2006 for the demolition of the existing dwelling-house and residential apartment building and the construction of a residential flat building comprising 4 units, 9 off-street car parking spaces, landscaping and siteworks on land at 42 and 42A Wolseley Road Point Piper subject to the following conditions:

1. Deferred Commencement - (s80(3) of the Act, cl.95 of the Regulation)

Development consent is granted subject that this consent is not to operate until the applicant satisfies the Council, in accordance with the *Regulations*, as to all matters specified in this condition:

- an amended landscape plan documenting the proposed landscape works around the Ficus specimen located adjacent to the foreshore prepared by a qualified Arborist
- a Tree Management Plan/ Construction Impact Assessment prepared by a qualified Arborist which satisfactorily addresses the impact of excavation upon the Ficus specimen and vehicle and machinery movements upon the existing significant Brush Box located adjacent to the southern boundary of 44 Wolseley Road and the existing significant Brush Box street tree.

Period within which evidence must be produced

The applicant must produce evidence to Council sufficient enough to enable it to be satisfied as to those matters above within 365 days (1 year) of the date of determination.

Clause 95(4) of the *Regulation*:

*“The applicant may produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters and, if the consent authority has specified a period for the purpose, the evidence **must be produced within that period.**”*

If the evidence is not produced within 365 days (1 year) of the date of determination this deferred commencement consent is of no effect, the consent does not operate and no construction certificate can be issued. No development can lawfully occur under this consent unless it operates.

Note: Nothing in the *Act* prevents a person from doing such things as may be necessary to comply with this condition. (See section 80(3) of the *Act*)

This consent does not operate until Council has acknowledged compliance with this condition in writing.

Note: Implementing the development prior to written confirmation of compliance may result in legal proceedings. If such proceedings are required Council will seek all costs associated with such proceedings as well as any penalty or order that the Court may impose. No *Construction Certificate* can be issued until all conditions including this condition required to be satisfied prior to the issue of any *Construction Certificate* have been satisfied.

2. **Approved Plans**

The development must be carried out in accordance with plans numbered SK01A-14A, dated 23/4/07, drawn by PM/TS, all of which carry a Council stamp “**Approved DA Plans**” and the signature of a Council officer, except where amended by the following conditions.

3. **Compliance with the Stormwater Management Plan**

The stormwater drainage system must be constructed in accordance with the Stormwater Management Plan as prepared by Neil Lowry & Associates P/L (Refer to Project No. 0231 Dwg H01 to H08 Rev A dated 29th March 2005).

4. **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. The stormwater system must be designed in accordance with Council’s Private Stormwater Code.

5. **Stormwater Certification and Work-As-Executed (WAE) Plans**

Prior to the release of the Final Building Certificate, Certification and Work-As-Executed (WAE) plans must be submitted and approved by the Accredited Certifier demonstrating that the site drainage system has been provided according to the submitted calculations and/or approved plans.

Certifications must be provided by a suitably qualified engineer. WAE plans must be prepared and certified by a Registered Surveyor.

The following must be provided:

a) Certification that:

- The drainage system has been installed in accordance with the drainage Conditions of Development Consent and relevant Australian Standards.

- That all drainage components are structurally adequate and have been installed in accordance with the relevant Codes and Standards and/or specifications.
- b) Work-As-Executed (WAE) plans showing:
- Pipe and drainage system layout, including all pits, pipe diameters, grades, materials, invert levels and surface levels.
 - Details (exact point and method) of connection to Council system

6. Treatment of existing drainage easements

All drainage easements and their associated services located within the site must be operational throughout the construction period and upon completion of the works. Any damage to these services must be immediately reinstated and the capacity of these services maintained.

Works such as fences over drainage easements must not obstruct the natural floodway or alter the natural floodway in such a way as to direct stormwater on to neighbouring properties.

All costs associated with the repair and/ or relocation of drainage easements and associated services must be borne by the developer.

The relocation of the drainage easement as indicated on Dwg No. H02 Rev A on the Stormwater Drainage Plans prepared by Neil Lowry & Associates P/L, must satisfy the following requirements prior to the issue of the Occupation Certificate;

- a) A new deposited plan indicating the location of the diverted drainage easement must be registered at the Land Titles Office and submitted to Council and the Accredited Certifier.
- b) Certification from a suitably qualified drainage engineer affirming that the relocated services have been designed and constructed in accordance with the relevant Australian Standards and are of a capacity equal to or greater than the replaced drainage services.

7. Compliance with erosion and sediment control plan

The erosion and sediment control plan by Neil Lowry & Associates P/L (Refer to Dwg H-08 dated 29th March 2005) must be implemented during site works and construction activities. All controls in the Plan must be maintained at all times. Alterations to construction stages may require additional erosion control measures to be implemented in accordance with the SSROC Soil and Water Management Brochures titled "*Do it Right on Site*" and the current version of the NSW Landcom publication "Managing Urban Stormwater: Soils and Construction" (*The Blue Book*). A copy of the Plan must be kept on-site at all times and made available to the accredited certifier and Council officers on request.

8. Sediment removal from vehicle wheels

A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, must be installed at the base of the access ramp and lip of exposed soil/ excavation to prevent mud and dirt leaving the site and being deposited on the street.

9. Display of Council's warning sign for soil and water management

Throughout the demolition, excavation and construction period, Council's warning sign for soil and water management must be displayed on the most prominent point of the building site, visible both from the street and site. A copy of the sign is available from Council.

10. Stockpiles

Stockpiles of topsoil, sand, aggregate, soil or other material must not be located on any drainage line or easement, natural watercourse, footpath or roadway, or within the dripline of any Street Tree. Stockpiles within the construction site must be protected with adequate sediment controls, in accordance with Council's Code for Sediment Control.

11. Location of building operations

Building operations such as brick cutting, washing tools or brushes and mixing mortar must not take place on public roadways or footways or in any other location which could lead to the discharge of materials into the stormwater drainage system. Footpaths, gutters and roadways must be swept regularly to keep them free from sediment.

12. Temporary disposal of roof water

Stormwater from any roof areas must be linked, via a temporary downpipe, to a Council approved stormwater disposal system immediately upon completion of the roof installation.

13. Disposal of site water during construction

The disposal of site water (includes groundwater, seepage, dewatering and stormwater trapped in excavations) must be in accordance with the requirements contained within Council's Guidelines For The Disposal Of Site Water During Construction. Disposal of site water to Council's stormwater system is not permitted unless an appropriate treatment method is provided. Proposed treatment methods are to be detailed and certified by an Environmental Engineer or suitable qualified professional and approved by Council's Drainage Engineer prior to implementation.

In the event of contaminated water, the applicant is advised to liaise with Sydney Water regarding a Trade Waste Agreement.

14. Right-of-Way – Maintenance and structural integrity

Construction activities associated with the development works have the potential to damage the right of way or prevent vehicular access to sites that benefit from use of the right-of-way.

To ensure that the right-of-way is maintained throughout and upon completion of works, the developer must comply with the following requirements prior to the commencement of any demolition, excavation or construction works;

- A Structural Engineering report that investigates and estimates the structural capacity of the slab in accordance with the relevant Australian Standards and engineering principals. Where the structural capacity is inadequate for the expected construction loads, the report must make recommendations concerning the upgrade of the right-of-way surface/ structure. All recommendations within the report must be completed prior to the commencement of any works. The engineer must specify and certify a suitable working load for the driveway surface and associated structure.
- A dilapidation report, recording the structural condition of the right-of-way surface and associated supporting structure. The report must also consider the footing system and bearing conditions of the structure.

Any works associated with upgrading, repairing or reinstating the driveway structure must be accomplished within a minimum time period and all costs must be borne by the developer.

15. Construction Management Plan

A construction management plan must be submitted for the approval of Council's Development Engineer before the commencement of demolition, excavation or construction works.

The plan must demonstrate that the following requirements will be satisfied:-

- All construction activities, storage of construction materials and waste must be contained within the site at all times.
- The delivery of materials or removal of waste will not impact on operation of the Right of Way.
- The Right of Way must be traversable by vehicular and pedestrian traffic at all times for its entire length.
- Where it is proposed to barge construction machinery/ material in, the transport of the goods will not adversely impact on the Harbour or the foreshore.
- That the structural integrity of the Right of Way will be monitored and maintained throughout the duration of the works. This will necessitate daily monitoring of the Right of Way for damage and all treatment to be directed by a suitably qualified engineer.
- That all construction activities and associated machinery are within the certified working load specified within the structural report required by condition "*Right-of-Way – Maintenance and structural integrity*" which must be supplied with the Construction Management Plan.

The plan must be segmented to address each stage of construction (demolition, excavation, construction, fit-out) and -must contain a site plan showing the location/ scope of;

- footprint of works.
- any site sheds and any anticipated use of cranes and concrete pumps,
- any areas of Council property on which it is proposed to install a Works Zone (Construction Zone),
- structures to be erected such as hoardings, scaffolding or shoring,

Structures or works on Council property such as hoardings, scaffolding, shoring or excavation need separate approval from Council. Standing of cranes and concrete pumps on Council property will need approval on each occasion.

Note: A minimum of four 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.

16. Compliance with the construction management plan

All excavation, demolition and construction work 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.

17. Site fencing

The site must be appropriately secured and fenced to the satisfaction of Council during demolition, excavation and construction work to ensure there are no unacceptable impacts on the amenity of adjoining properties. Permits for hoardings and or scaffolding on Council land must be obtained and clearly displayed on site.

18. Driveways and associated works

The following works must be undertaken at the applicant's expense prior to the final building inspection and the issuance of the Occupation Certificate.

- Full reconstruction of the concrete driveway crossing and kerb layback. The design and construction of the driveway crossing must be in accordance with RF2. Boundary levels must match existing. Levels in the footpath area must generally match existing unless alterations approved by Councils Technical Services Department.

An "Application for permission to construct a vehicle and special crossing by private contractor" must be completed and submitted to Council's Customer Service Centre prior to commencement of construction of a new driveway. For any technical queries regarding alteration to existing footpath levels or alignments, please contact Council's Works Supervisor.

19. Road Opening Permit

Prior to the commencement of any excavation in Council controlled roadways or footpath areas, the developer must obtain a road opening permit from Council's Customer Services Counter. Restoration of roads, footpaths, retaining walls, kerbs and gutters must be carried out in accordance with the relevant clauses of the current edition of AUS-SPEC.

20. Footpath levels

The existing footpath level and grade at the street alignment of the property must be maintained unless alterations are approved by Councils Technical Services Department.

21. Protection of services

Prior to any excavation works, the location and depth of all services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The developer must meet all costs of any adjustment, relocation or reinstatement of any services.

22. Storage of materials and plant on Council's footpath

Building, excavation or demolition materials and plant must not be stored on Council's footpath and/or roadway unless prior written approval has been obtained from Council's Traffic Engineer.

23. Public footpaths

A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footpaths fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers and in accordance with the relevant clauses of Council's document "Standard Specifications for Roadworks, Drainage and Miscellaneous Works dated Jan 2003.

Where circulation is diverted on to the roadway clear directional signage and protective barricades must be installed in accordance with Australian Standard AS1742-3 2002 "*Traffic Control Devices for Work on Roads*". Should the applicant propose to direct pedestrians onto the road pavement of a State road then an application is to be made to the RTA for a Road Occupancy Licence. Licence approval is to be submitted to Council.

If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may carry out remedial works and deduct the cost from the Damage Security Deposit.

24. Repair of Damaged Infrastructure

If Council's infrastructure is damaged during the course of works, Council's Development Engineer must be notified and necessary repairs must be undertaken within the time stipulated by Council, to Council's specifications, and at no cost to Council. Works generally must be in accordance with the relevant clauses of the current edition of AUS-SPEC and Councils Document "*Specification for Road Works, Drainage and Miscellaneous Works*".

If the works are not undertaken to the satisfaction of the Councils Works Engineer with regard to time or quality, Council may carry out remedial works and deduct the cost from the Damage Security Deposit.

25. Damage security deposit

A security deposit of \$126,000 (One hundred and twenty six thousand Dollars) for the cost of making good any damage to Council property caused as a consequence of the construction work, plus an administration fee of \$154.00, must be paid to Council prior to the issue of the Construction Certificate. The security deposit, which may be in the form of a bank guarantee, has been calculated in accordance with the following schedule.

Estimated cost of work	Deposit
Works up to \$50,000	\$2,000
Works in excess of \$50,000 & up to \$100,000	\$4,000
Works in excess of \$100,000	\$4,000+\$200/\$10,000 estimated cost>\$100,000

Council may use all or part of the Damage Security Deposit to complete damage restoration works if they do not meet Council's requirements.

26. Vehicular access and garaging

Driveways and access ramps must be designed and constructed not to scrape the underside of cars.

To ensure efficient access and exit to and from the garage, the garage entry must be widened to at least 3.5 metres at the base of the ramp. Revised architectural plans complying with this requirement must be submitted to the Accredited Certifier with the application for a Construction Certificate.

In all other respects the proposed basement garage, driveways and access ramps must be designed to comply with Australian Standard 2890.1 – "Off-Street car parking".

27. Dilapidation survey

A dilapidation survey of the following property and infrastructure must be conducted prior to any site work. The extent of the survey must cover the likely "zone of influence" that may arise due to excavation works, including dewatering and/or construction induced vibration. A practicing structural engineer must prepare a full dilapidation report on the structural condition of all existing structures at the following locations:

- No. 38 Wolseley Crescent
- No. 40 Wolseley Crescent
- No. 44 Wolseley Crescent
- No. 46 Wolseley Crescent
- No. 48 Wolseley Crescent
- No. 50 Wolseley Crescent

The Report must be completed and submitted to Council prior to the commencement of **any** demolition, excavation or construction works.

A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council.

28. Compliance with the recommendations of the geotechnical and hydrogeological reports

The development works are to be undertaken in accordance with the recommendations of the Geotechnical and Hydrogeological report/s prepared by Jeffery & Katauskas P/L (Refer to Rprt 19075VT(B)rpt dated 21st December 2004, Facsimile from J&K to Burley Katon Halliday P/L dated 20th October 2005 AND Facsimile from J&K to Burley Katon Halliday P/L dated 6th September 2006).

29. Geotechnical / Hydrogeological Monitoring Program

Excavation works associated with the proposed development must be overseen and monitored by a qualified and practising geotechnical engineer. A Geotechnical / Hydrogeological Monitoring Program must be produced to ensure that all geotechnical matters are regularly assessed and an appropriate construction methodology is selected so as to prevent adverse effects resulting from the excavation.

The Geotechnical / Hydrogeological Monitoring Program for the construction works must be consistent with the recommendations of the Geotechnical and Hydrogeological Report prepared by Jeffery & Katauskas P/L (Refer to Rprt 19075VT(B)rpt dated 21st December 2004 AND Facsimile from J&K to Burley Katon Halliday P/L dated 20th October 2005) and Councils document, “*Guidelines for Preparation of Geotechnical and Hydrogeological Reports*”.

A *Professional Engineer* with expertise and experience in geotechnical and hydrogeological engineering must prepare and submit the Program to the Accredited Certifier prior to any works commencing.

The Monitoring Program must contain the following;

- a) Construction methodology and monitoring
 - The construction methodology must be detailed. Recommended control points to allow for inspection by a geotechnical engineer must be incorporated within the methodology statement at relevant stages of the excavation works. The control points must include the following;
 - Excavation of the site (face of excavation, base, etc)
 - Installation and construction of temporary and permanent shoring/ retaining walls.
 - Foundation bearing conditions and footing construction.
 - Installation of sub-soil drainage.
 - Any additional stages as considered necessary by the *Professional Engineer* preparing the report.
- b) Vibration monitoring
 - Specify the details of a continuous vibration monitoring system;
 - location and type of settlement/ vibration monitoring devices
 - location and type of audible alarm system (triggered if the following vibration levels are exceeded). The alarm must be suitably loud enough for machinery operators to recognise.
 - pre-set acceptable limits at each stage of construction for the variation of:
 - settlement
 - deflection or movement of retaining mechanisms such as shoring and bracing and
 - vibration in accordance with AS 2187.2 1993 Appendix J, including acceptable velocity of vibration.

- c) Contingency Plan should any of the control levels be exceeded.
- The Geotechnical / Hydrogeological Monitoring Program must include a contingency plan when monitoring and revealed excavation conditions exceed the pre-set limits specified above.

30. Compliance with the Geotechnical / Hydrogeological Monitoring Program

Excavation and construction works must be undertaken in accordance with the “*Geotechnical / Hydrogeological Monitoring Program*” submitted to satisfy the condition “*Geotechnical / Hydrogeological Monitoring Program*”.

All controls and monitoring required within the “*Geotechnical / Hydrogeological Monitoring Program*” must be maintained at all times. A copy of the Plan must be kept on site at all times and made available to the Accredited Certifier and Council officers on request.

At any time during excavation works where a control point has been exceeded, all works must immediately cease. A *Professional Engineer* must be notified of the event, investigate the cause and direct an appropriate action or change to construction methodology to undertake. This must be documented and given to the *Principal Contractor* and any relevant sub-contractor who must comply with the directions.

31. Certification of the Geotechnical / Hydrogeological Monitoring Program

A *Professional Engineer* with expertise and experience in geotechnical and hydrogeological engineering must prepare certification stating that all development works have been conducted;

- In accordance with the “*Geotechnical / Hydrogeological Monitoring Program*” submitted by condition of consent.
- In accordance with the relevant Australian Standards and Codes of Practise.
- In a manner that does not compromise the structural integrity of all adjacent structures, property and infrastructure.

The certification and a complete record of inspections, testing, monitoring and documented actions must be submitted in report form to the Accredited Certifier for approval.

32. Provision of an Electricity Sub-Station

An electricity sub station may be required on the site. The owner shall dedicate to the appropriate energy authority, free of cost, an area of land to enable an electricity substation to be established, if required. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council.

Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Accredited Certifier prior to issue of the Construction Certificate. The Accredited Certifier must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

33. Photographic archival 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:
 - (i) each elevation,
 - (ii) each structure and landscape feature;
 - (iii) internal or external details if nominated in Council's heritage officer's assessment report; and
 - (iv) 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.

34. Protection/restoration of sandstone steps and the sea walls

In order to protect the heritage significance of Seven Shillings Beach, the existing sandstone steps and sea walls adjacent to the foreshore are to be retained and repaired where required.

35. NSW Maritime requirements

Any Part 3A Permit issued under the Rivers and Foreshores Improvement Act 1948 would be subject to the following general terms:

- 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
- The proposed works are to be carried out so that:
 - a. No materials are eroded, or likely to be eroded, are 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.
- Any material that does enter Double Bay must be removed immediately.

- In relation to Condition 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 shall be in accordance with the relevant specifications and standards contained in the manual *Managing Urban Stormwater- Soils & Construction* issued by the NSW Department of Housing/Landcom in 2004 and any other relevant Council requirements.
- The erosion, sediment and pollution controls shall be installed and stabilised before commencement of site works. This does not include the works associated with the construction of the appropriate controls.
- The erosion, sediment and pollution control system must be 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.
- Any material that is to be stockpiled on site is to be stabilised to prevent erosion or dispersal of the material.
- Suitable measures shall be adopted to protect native species that are to be retained at the site from any damage resulting from construction activities. This includes restricting access for machinery in these areas (including beneath the canopy of the trees) and fencing the area to at least the canopy drip line, not storing any material around the trunks of trees and educating contractors of their responsibilities.
- Foreshore landscaping should 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. A comprehensive landscape plan showing species to be used, numbers and their locations is to be provided to NSW Maritime prior to a Part 3A Permit being issued.
- If access for construction and heavy machinery is to be sought via the foreshore 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 the kelp/rock shelves through access and egress of the barge and associated activities (such as propeller damage, lines and anchor points, length of stay etc).
 - b) The protection of the inter-tidal beach and natural rock habitats.
 - c) The management of disturbed foreshore lands to avoid any sediment entering the waterway.
 - d) Siltation management through the implementation of suitable controls (such as floating boom and silt curtains).
 - e) Post construction works to restore and stabilise the foreshore lands.
 - f) Measures are in place to audit the environmental performance of the construction management and what approach is to be used for responding to an issue.
- No works are to be undertaken on land owned by NSW Maritime (i.e below MHWM) without the relevant approvals being granted by NSW Maritime.

36. BASIX Commitments

The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate No. 69777783 other than superseded by any further amended consent and BASIX 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,"

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."

Note: For further information please see <http://www.basix.nsw.gov.au>

37. Consolidation of Allotments

Prior to the Occupation Certificate a final Plan of Survey prepared and certified by a Registered Surveyor must be submitted and approved by the Accredited Certifier showing the consolidation of the 2 lots into a single lot.

A new deposited plan of the consolidated lot must be registered at the Land Titles Office and a copy provided to Council with copies of certificates of title, prior to the issue of the Occupation Certificate.

38. 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.

39. Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the *Regulation* requires compliance with the *BCA*. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the *Construction Certificate* application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).

40. Waste Storage

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

- a) the storage of waste and recycling bins behind the building line or within non-habitable areas of the building,
- b) two separate centralised waste and recycling rooms or areas, one for commercial waste and one for residential waste. They must be self-contained and have separate keys and locking systems.
- c) the path for wheeling bins between the waste and recycling storage area and the collection point must be free of steps and kerbs and having a maximum grade of 1:8. The waste storage area must be as close as possible to the service road collection point.
- d) bins to be stored with lids down to prevent vermin from entering the waste containers.
- e) smooth impervious floor graded to a floor waste and provided with a tap and hose to facilitate regular cleaning of the bins. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water.
- f) walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter.
- g) the garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use.
- h) Odour problems must be minimised by exhaust ventilation.
- i) Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room.
- j) Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay.

41. Acoustic Certification of Mechanical Plant & Equipment

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a *professional engineer* (acoustic engineer) certifying that noise from the operation of mechanical plant and equipment will not exceed the background noise level when measured at any boundary of the site.

Where sound attenuation is required this must be detailed.

Note: Further information including lists of Acoustic Engineers can be obtained from:

1. **Australian Acoustical Society**—professional society of noise-related professionals ([www.acoustics.asn.au /index.php](http://www.acoustics.asn.au/index.php)).
2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals (www.aaac.org.au).

42. Requirement for a Construction Certificate

In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979*, the erection of the building must not be commenced until:

- (a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) Council; or
 - (ii) an accredited certifier; and
- (b) a principal certifying authority (PCA) has been appointed and the Council has been notified in writing of the appointment, and
- (c) at least two days notice, in writing, has been given to Council of the intention to commence work.

43. Levels

For the purpose of indicating relative levels in terms of Australian Height Datum and boundary clearances, and to ensure that building construction complies with the development consent, survey certificates must be provided to the PCA in respect of the building/s layout and ground floor level/s prior to pouring of concrete or laying of timber floor boards.

44. Materials

Details of the colour, texture and substance of all external materials must be submitted to Council or the accredited certifier prior to the issue of a Construction Certificate and are to be to the satisfaction of an authorised Council assessment officer or the accredited certifier.

45. Structural details

Structural engineering details and design calculations, prepared and certified by a qualified practising Structural Engineer, must be submitted with Construction Certificate application, for all reinforced concrete work, structural steel work, retaining walls, brick fences, shoring and underpinning, isolated piers, chimneys, parapets and other structural members. This condition is imposed to ensure the structural integrity of the proposed building work.

46. Demolition, excavation and construction hours

Demolition, excavation and construction work must not take place outside the hours of 7.00am to 5.30pm Monday to Friday and 7.00am to 1.00pm Saturday. No work and no deliveries are to take place on Sundays and public holidays. Noise from construction activities associated with the development must comply with the guidelines contained in the NSW EPA *Environmental Noise Control Manual* Chapter 171.

47. Machine excavation

Excavation or removal of any materials involving the use of machinery of any kind, including compressors and jack hammers, must be limited to between 9.00am and 4.00 pm Mondays to Fridays, with regular breaks of 15 minutes each hour. This condition is imposed to ensure reasonable standards of amenity for occupants of neighbouring properties.

48. Building Inspections

The Applicant, Owner and Builder, jointly and severally, must ensure that they call their Principal Certifying Authority ("the PCA") to carry out such critical phase building inspections required by the PCA, the PCA Service Agreement and that the PCA is satisfied with the level of compliance achieved before the Builder proceeds to the next phase of construction. Ample notice of required inspections must be given to the PCA in accordance with the PCA Service Agreement. The Applicant, Owner and Builder must comply with the PCA Service Agreement (Service Contract) and any lawful direction given by the Principal Certifying Authority.

Note: It is the responsibility of the PCA to ensure that critical phase building inspections are undertaken in accordance with a PCA Service Agreement and issue to the Applicant, Owner and Builder appropriate Notice under Section 109L of the Environmental Planning & Assessment Act 1979 ("the Act") where any breach of this consent occurs. Failure of the PCA to issue such notice may result in Council taking action under Section 109V of the Act. Failure of the Applicant, Owner and Builder to comply with a PCA Service Agreement and comply with lawful directions of the PCA under this condition may result in Council issuing fines, notices, orders and commencing legal proceedings. Council will only enter into PCA Agreements with the Owner of the land being developed. Council, if appointed as the PCA, will report to the owner of the land being developed.

49. Occupation of premises

The premises must not be occupied prior to the issue of an Occupation Certificate.

50. Compliance Certificate from Sydney Water

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.

Following application, a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to Council or the accredited certifier prior to the issue of an occupation or subdivision certificate.

51. Compliance with Building Code of Australia

- (a) All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.
- (b) This condition does not apply to the extent to which an exemption is in force under Clause 187 or 188, of the *Environmental Planning and Assessment Regulation 2000*, subject to the terms of any condition or requirement referred to in Clause 187 (6) or 188 (4) of the Regulation.

52. Wet areas

All floors of wet areas are to be constructed and finished so as to be impervious to water and graded to a sufficient number of floor drains.

53. Fire safety

A schedule of all proposed safety measures within the building must be submitted to Council with or before the application for a Construction Certificate.

54. 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.

Note: 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.

55. Standard for demolition

All demolition work must be undertaken in accordance with the provisions of *Australian Standard AS2601-2001: The Demolition of Structures*.

56. Signs to be erected on building and demolition sites

- (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (i) stating that unauthorised entry to the work site is prohibited; and
 - (ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
- (b) Any such sign must be removed when the work has been completed.
- (c) This clause does not apply to:
 - (i) building work carried out inside an existing building; or
 - (ii) building work carried out on premises that must be occupied continuously (both during and outside working hours) while the work is being carried out.

57. Excavations and backfilling

- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

58. Protection of public places

- (a) If the work involved in the erection or demolition of a building:
 - (i) is likely to cause pedestrian or vehicular traffic on a public place to be obstructed or rendered inconvenient, or
 - (ii) building involves the enclosure of a public place;a hoarding or fence must be erected between the work site and the public place.
- (b) If necessary, an awning must be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (c) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (d) Any such hoarding, fence or awning must be removed when the work has been completed.

Note: Prior to the erection of any hoarding, fence or the like on any footpath or other property owned or controlled by Council, permission must be sought and obtained from Council and the prescribed rental fee paid.

59. Support for neighbouring buildings

- (a) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - (i) must preserve and protect the building from damage; and
 - (ii) if necessary, must underpin and support the building in an approved manner; and
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (b) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- (c) In this condition, allotment of land includes a public road and any other public place.

60. Toilet facilities

- (a) Toilet facilities must 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.
- (b) Each toilet provided:
 - (a) must be a standard flushing toilet; and
 - (b) must be connected:
 - (i) to a public sewer; or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council; or
 - (iii) 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.
- (c) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
- (d) 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 Regulation.

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.

61. Payment of Section 94A Levy

In accordance with Schedule 1 of the Woollahra Section 94A Contributions Plan 2005, a \$61,897.80 levy (1% of the total cost of works) is applicable. This levy is applicable to all development applications and will be used for a variety of community works as outlined in Schedule 2 of the Section 94A Contributions Plan.

To ensure that the value of 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.

62. Lighting

Any lighting on the site must be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting must comply with the *Australian Standard AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting*.

63. Compliance with Disability Discrimination Act

The development must be designed to comply with the requirements of the *Disability Discrimination Act* and AS 1428 – “*Design for Access and Mobility*”, Parts 1, 2, 3 and 4.

64. Layout of buildings

The layout of all external walls, including retaining walls and contiguous piling must be checked and verified by survey prior to the commencement of construction to ensure that building construction complies with the development consent and does not encroach beyond the boundaries of the site.

65. Retaining walls and drainage

If the soil conditions require it:

- (a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided; and
- (b) adequate provision must be made for drainage.

R4 DA423/2005 – 1-3 Prospect Street, Paddington – Section 82A Review of refusal – 17/11/2006

Note In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to the matter being called by Councillor Shoebridge for the reasons of:

1. Significant non-compliances with Paddington DCP;
2. Streetscape impact;
3. Compatibility of finishes.

Note: Mr Angelo Candalepas and Mr Andrew McClosky on behalf of the applicant addressed the Committee.

(Petrie/Boskovitz)

Recommendation: Pursuant to Section 82A of the Environmental Planning and Assessment Act, 1979

THAT the Council, as the consent authority, grant development consent to Development Application No. 423/2005 for alterations to existing brick cottage (No. 1 Prospect Street) and construction of two storey rear addition (3 Prospect Street) on land at 1- 3 Prospect Street Paddington, 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, piling, 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)
DA-1101 C to 1103 C, DA1201 C to 1202 C, 1301 C to 1304 C	Architectural Plans	Candalepas Associates	26/05/2006

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 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 significant or contributory buildings prior to any demolition

An 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 the demolition work and prior to the issue of a Construction certificate.

The archival record is to be completed by a heritage consultant listed by the NSW Heritage Office or by another suitably qualified consultant who must demonstrate a working knowledge of archival principles.

The archival record is to be bound in an A4 format, with drawings folded to suit and is to include the following:

- a. A copy of the final heritage report submitted with the development application,
- b. A 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; floor plans at scale of 1:100; postcard sized photographs of:
 - i. each elevation;
 - ii. each structure and landscape feature and significant parts of the property as defined in the submitted statement of significance;
 - iii. views to the subject property from each street and laneway or public space; and
 - iv. external and internal details as nominated in the assessment report by Council's heritage officer.
- c. Each photograph to be mounted, labelled and cross-referenced in accordance with recognised archival recording practice.

- d. The original, coloured, photographic set and one 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: B3

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

C.1 Materials

Details of the colour, texture and substance of all external materials must be submitted to Council or the accredited certifier prior to the issue of a Construction Certificate and are to be to the satisfaction of an authorised Council assessment officer or the accredited certifier. For properties that are located in a Conservation Area or that are Heritage Items, the proposed materials must be to the satisfaction of Council's Heritage Officer.

C.2 Drainage to Lightwell Garden

A double system of stormwater drainage shall be employed within the lightwell garden in order to avoid flooding of the subject and the adjoining property.

Details of this change shall be indicated on the plans submitted for a Construction Certificate to Council or the Accredited Certifier.

C.3 Water conservation

To ensure compliance with Part 5.1.11 of the Paddington Development Control Plan, 1999, the use of low flow water regulators on taps, dual flushing toilets and water saving shower heads shall be incorporated into the design of the development.

Details shall be submitted with an application for a Construction Certificate.

C.4 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:

- a. To improve the onsite detention of stormwater in accordance with Part 5.1.6 of the *Paddington Development Control Plan, 1999* the courtyards to Nos. 1 and 2 shall be covered with porous paving or timber decking.
- b. To protect the character and appearance of the Heritage Conservation Area the original unpainted brickwork surfaces are to remain unpainted.

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.5 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.	\$7 000	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	\$2 500 + Index Amount	Yes, quarterly	T94
INSPECTION FEES under section 608 of the Local Government Act 1993			
Security Administration Fee	\$163	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$9 663 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?[d3]

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[d4]

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.6 Structural Adequacy of Existing Supporting Structures

A certificate from a *professional engineer* (Structural Engineer), certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be submitted with the *Construction Certificate* application.

Note: This condition is imposed to ensure that the existing structure structural is able to support the additional loads proposed.

Standard Condition: C35

C.7 Professional Engineering Details

The *Construction Certificate* plans and specifications, required by clause 139 of the Regulation, must include detailed *professional engineering* plans and 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 specifications must be submitted to the *Certifying Authority* with the application for any *Construction Certificate*.

Standard Condition: C36

C.8 Stormwater discharge to existing *Stormwater Drainage System* (Clause 25(2) WLEP 1995)

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

- a. the location of the existing *Stormwater Drainage System* including all pipes, inspection openings, surface drains, pits and their discharge location,
- b. the state of repair of the existing *Stormwater Drainage System*,
- c. any remedial works required to upgrade the existing *Stormwater Drainage System* to comply with the BCA,
- d. any remedial works required to upgrade the existing *Stormwater Drainage System* crossing the footpath and any new kerb outlets,
- e. any new *Stormwater Drainage System* complying with the BCA,
- f. interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath,
- g. any rainwater tank required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*, and
- h. general compliance with the Council's draft Development Control Plan Stormwater Drainage Management (draft version 1, public exhibition copy dated 23 August 2004)

Where any new *Stormwater Drainage System* crosses the footpath area within any road, separate approval under section 138 of the *Roads Act* 1993 must be obtained from Council for those works prior to the issue of any *Construction Certificate*.

All *Stormwater Drainage System* work within any road or public place must comply with Woollahra Municipal Council's *Specification for Roadworks, Drainage and Miscellaneous Works* dated January 2003.

Note: Clause F1.1 of Volume 1 and Part 3.1.2 of Volume 2 of the BCA provide that stormwater drainage complying with AS/NZS 3500.3 Plumbing and drainage - Part 3: Stormwater drainage is deemed-to-satisfy the BCA. Council's specifications apply in relation to any works with any road or public place.

Note: Stormwater Drainage Systems must not discharge to any Sewer System. It is illegal to connect stormwater pipes and drains to the sewerage system as this can overload the system and cause sewage overflows. See:

<http://www.sydneywater.com.au/Publications/Factsheets/SewerfixLookingAfterYourSewerPipes.pdf>

Note: Woollahra Municipal Council's *Specification for Roadworks, Drainage and Miscellaneous Works* dated January 2003 and Council's draft Development Control Plan Stormwater Drainage Management (draft version 1, public exhibition copy dated 23 August 2004) can be downloaded from Council's website:

www.woollahra.nsw.gov.au

Standard Condition: C49

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.

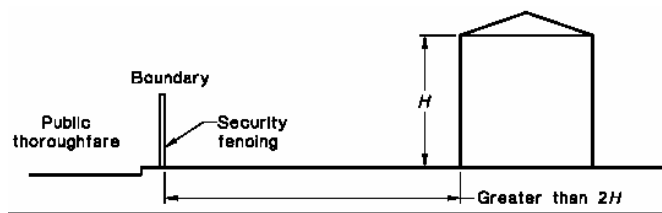
In this condition, a reference to the *BCA* is a reference to that code as in force on the date the application for the relevant construction certificate is made.

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.

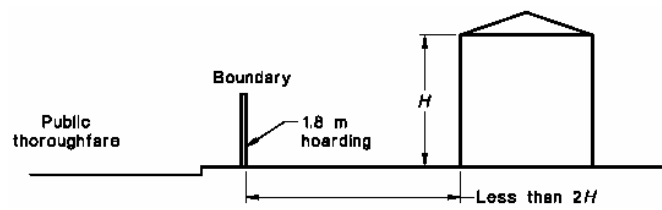
Standard Condition: D1

D.2 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.

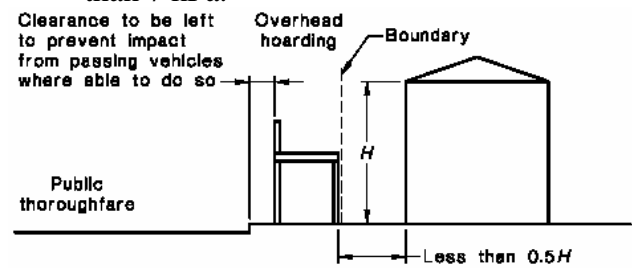


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either

- 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.3 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.4 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.5 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.6 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.7 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.8 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

D.9 Checking Construction Certificate plans & protecting assets owned by the Sydney Water Corporation

Construction Certificate plans must be stamped by the Sydney Water Corporation prior to the commencement of any development work. This is required to ensure that buildings close to or over Sydney Water Corporation assets are identified and requirements for protecting them are implemented.

Note: Further information can be obtained from the Sydney Water Corporation on or telephone 13 20 92 or by visiting their web site:
http://www.sydneywater.com.au/html/yourhome/quick_check/building_renovating.cfm
Standard Condition: D19

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 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.4 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 out side 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 down loaded 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 & 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.

The following trees may be removed:

Council Reference No:	Species	Location	Dimension (Metres)
1	<i>Archontophoenix cunninghamiana</i> Bangalow Palm	Rear of 3 Prospect St	5m x 3m

Note: The tree/s that may be removed should appear coloured red 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.9 Replacement trees which must be planted

The following replacement tree species must be planted to ensure the preservation of the landscape character of the area. Details in compliance with the following criteria specifying the species and planting locations of the replacement plants must be included on the Landscape Plan for approval by Council or the accredited certifier with or before the application for a Construction Certificate.

Species/Type	Planting Location	Container Size or Size of Tree	Minimum Dimensions at Maturity
2 x Applicants choice – Tree of Palm	Rear	100 litre container size	5 x 3

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) Noise controls;

Note 1: See http://www.epa.nsw.gov.au/small_business/builders.htm for additional information.
Standard Condition: E11

E.11 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.12 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.13 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.14 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.15 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
- d) 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.16 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.17 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

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

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

H.1 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. Hoarding;
- c. Scaffolding; and
- d. 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

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

No relevant conditions

J. Miscellaneous Conditions

No relevant conditions

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 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.4 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.5 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.6 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.7 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.8 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.9 Appeal

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

George Fotis, Team Leader on (02) 9391 7089

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.10 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.11 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.12 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.13 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.14 Compliance with the Building Code of Australia

Council considers pursuant to clause 94 of the *Regulation* that it is appropriate to require the existing building to be brought into total or partial conformity with the *BCA*.

The *Construction Certificate* plans and specification required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation* must detail building upgrade works required by this condition.

The *Certifying Authority* must be satisfied that such work, to be implemented as part of the development, will upgrade the building to bring it into compliance with the following provisions of the *BCA* as in force at the date of the *Construction Certificate* application:

- a. Housing Provisions, Clause 3.8- Health and amenity,
- b. Housing Provisions, Clause 3.7.2.2 - Requirements for smoke alarms,
- c. Housing Provisions, Clause 3.9.1 - Stair construction,
- d. Housing Provisions, Clause 3.9.2 - Balustrades,

Note: The *Certifying Authority* issuing the *Construction Certificate* has no power to remove the requirement to upgrade the existing building as required by this condition. Where this condition specifies compliance with performance requirements of the *BCA* the *Certifying Authority*, subject to their level of accreditation, may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (deemed to satisfied) provisions of the *BCA* these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed under section 82A or amended under section 96 of the *Act*.

Note: This condition does not set aside the *Certifying Authorities* responsibility to ensure compliance with clause 143 of the *Regulation* in relation to Fire Protection and Structural Adequacy.

Note: AS 4655 *Guidelines for fire safety audits for buildings* (or any succeeding AS) should form the basis of any fire upgrade report. Standard Condition: C10

There being no further business the meeting concluded at 11pm.

We certify that the pages numbered 913 to 1060 inclusive are the Minutes of the Development Control Committee Meeting held on 21 May 2007 and confirmed by the Development Control Committee on 4 June 2007 as correct.

Chairperson

Secretary of Committee