

## ADDITONAL REPORT

**Agenda:** *Development Control Committee*

**Date:** *Monday 21 January 2008*

**Time:** *8.00pm*

**Session:** *Two*

**Part:** *Four of Four Parts*

**Items:** *D12*

**Development Control Committee**

## **Outline of Meeting Protocol & Procedure:**

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

## **Delegated Authority (“D” Items):**

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

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

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

## **Committee Membership:**

7 Councillors

## **Quorum:**

The quorum for a committee meeting is 4 Councillors.

**Meeting Agenda**  
**Session Two – Commencing 8.00pm**  
**Part Four of Four Parts**

<b>Item</b>	<b>Subject</b>	<b>Pages</b>
D12	DA 372/2007 – 1/1 Wentworth Street, Point Piper – Substantial alterations and additions including a new two storey addition, swimming pool and deck and widening of a driveway – 8/6/2007 <b>*See Recommendation Page 504</b>	484-571

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>ITEM No.</b>	D12
<b>FILE No.</b>	DA 372/2007/1
<b>PROPERTY DETAILS</b>	1/1 Wentworth Street POINT PIPER
	<b>Lot &amp; DP No.:</b> LOT: 1 SP: 2979
	<b>Side of Street:</b> East
	<b>Site Area (m<sup>2</sup>):</b> 1808m <sup>2</sup> (1594m <sup>2</sup> as defined by the WLEP 1995)
	<b>Zoning:</b> Residential 2(a)
<b>PROPOSAL:</b>	Substantial alterations and additions including a new two storey addition, swimming pool and deck and widening of a driveway
<b>TYPE OF CONSENT:</b>	Local Development
<b>APPLICANT:</b>	Mrs P J Broekhuizen & Mr N Broekhuizen
<b>OWNER:</b>	Mrs P J Broekhuizen
<b>DATE LODGED:</b>	08/06/2007 – (Original submission) 21/11/2007 – (Amended plans)
<b>AUTHOR:</b>	Mr J La Posta

### 1. RECOMMENDATION PRECIS

The application is recommended for approval, subject to conditions.

### 2. PROPOSAL PRECIS

The application proposes substantial alterations and additions including a new two storey addition, swimming pool and deck and widening of a driveway.

### 3. LOCALITY PLAN



### 4. DESCRIPTION OF PROPOSAL

The application proposes substantial alterations and additions including a new two storey addition, new swimming pool and deck and widening of a driveway. Specifically the proposal includes the following:

- internal alterations including the reconfiguration of rooms, relocation of staircases and demolition of sections of flooring to create void spaces
- new garage, dwelling entry, laundry and staircase
- extend the ground floor to incorporate a new dining room, modified lounge room (with void above) and three paved areas accessed from the sitting, office and dining rooms
- north facing bay window and bench for kitchen
- first floor addition above the new garage. The addition is to include a new bedroom and suite, bathroom, external access to the front of the site, landing area and staircase.
- extension above the new ground floor dining room to include a new balcony and bathroom
- construct an east facing balcony with access from bedroom 1
- new east facing bay windows providing outlook to the void area
- at the upper most level, a new staircase is proposed, new dormer window adjoining the existing south facing dormer, new bathroom contained within the roof space and new external east facing balcony that would replace the existing glazing
- landscaping works to the rear of the dwelling and construction of a new swimming pool within the rear setback of the property. On either ends of the swimming pool are to be timber pool decks
- replace and enlarge the existing ground floor north and east facing windows of the dwelling
- resurface and widen the existing driveway to facilitate improved access from Wentworth Street

- reinstate and repair existing stairs that provide access to Wunulla Road. A new gate is proposed on Wunulla Road
- works to the northern boundary retaining wall

**5. SUMMARY**

Reasons for report	Issues	Submissions
<i>The application is referred to the DCC as it was called by a number of Councillors regarding the location of the swimming pool and objectors concerns</i>	<i>privacy; sunlight, bulk and scale; FSR; height; building setbacks; proximity of works to heritage trees</i>	11 submissions were received.

**6. ESTIMATED COST OF WORKS**

Council adopted (DCC 6 June 2005) administrative changes for determining DA fees based on the estimated cost of work. Where the estimated cost of work is greater than \$750,000 or where the applicant’s estimate is considered to be neither genuine or accurate, the applicant has to provide a Quantity Surveyor’s report. A Quantity Surveyor’s report was provided with this DA which estimates the cost of the proposed development at \$2,256,238.

**7. DESCRIPTION OF SITE OF LOCALITY**



**Figure 1. Aerial Photograph 2005 of subject site and surrounding properties**

<b>THE SITE AND LOCALITY</b>	
<b>Physical features</b>	<p>The subject site is located on the eastern side of Wentworth Street near the intersection of Wolseley Road and Wentworth Street in Point Piper. The site is a battleaxe allotment with a 2.5 – 3.0m wide driveway providing vehicular and pedestrian access to the site from Wentworth Street to the body of the property.</p> <p>A pedestrian access handle also exists from the rear of the property affording access from the site to Wunulla Road.</p> <p>The site is occupied by a number of trees covered by Council’s Tree Preservation Order. Of particular significance are two heritage listed trees, the Cook Pine tree located abutting the existing driveway and the Moreton Bay Fig Tree located to the rear (east) of the dwelling.</p>
<b>Topography</b>	<p>The site has an appreciate fall of 6.5 metres from Wentworth Street to the garden areas of the site. The site then flattens out to accommodate the large garage and dwelling. To the rear of the site the land slopes steeply down towards 4 Wunulla Road, the adjoining property to the east.</p>
<b>Existing buildings and structures</b>	<p>The site is occupied by an established two storey building, with a third level (attic level as defined by the RDCP) contained within the steeply pitched roof form.</p> <p>A garage and carport are also located on site, both attached to the sides of the existing building.</p>
<b>Environment</b>	<p>The land surrounding the subject site is established residential development. Many of the surrounding properties are large dwelling houses or Residential Flat Buildings.</p>

## 8. PROPERTY HISTORY

<b>PROPERTY HISTORY</b>	
Current use	Dwelling
Previous relevant applications	There are no relevant planning applications pertaining specifically to this DA.
Pre-DA	<p>A pre-DA meeting was undertaken at Council on the 10 April 2007. The meeting minutes supplied to the applicant made the following conclusions:</p> <p><i>The proposal appears to address many of the relevant criteria of S79c criteria of the Environmental Planning and Assessment Act 1979, however prior to lodging a DA, the applicant is recommended to address the following issues:</i></p> <ul style="list-style-type: none"> <li>• <i>the application represents a non-compliance with the building footprint and floor space ratio requirements specified in the RDCP. The proposal would need to ensure that any non-compliance with the numeric criteria would not have adverse impacts on the adjoining neighbours and the public domain</i></li> <li>• <i>the application results in a non-compliance with the southern and western boundary setbacks. Council appreciates that the existing garage is built to the south and west boundary, however all new development should ensure compliance with the current setback requirements of the RDCP. The proposed alterations to the building form need to be adequately justified regarding any potential overshadowing and bulk impacts</i></li> <li>• <i>the proposed swimming pool raises concern with regards to adverse amenity impacts on the adjoining neighbours and the visibility of the element from the public domain. The applicant would need to provide additional information regarding the swimming pool details to ensure no adverse impacts on the adjoining properties and a negligible impact on the public domain</i></li> <li>• <i>the heritage listed Cook Pine and Moreton Bay Fig Tree’s are to be retained on site. Detailed information must be provided to Council to demonstrate that the proposed alterations and additions and the associated construction works would not adversely impact on the health</i></li> </ul>

	<i>and longevity of these important trees.</i>
Requests for additional information	N/A
Amended plans/ Replacement Application	Amended plans were submitted to Council on the 21 November 2007. The amended plans detailed the following modifications to the design: <ul style="list-style-type: none"> <li>• relocation of the proposed swimming pool to include an increased setback of 7.0 metres from the eastern neighbours property</li> <li>• the proposed pool was also sunken 1.0 metre lower than previously proposed</li> <li>• the proposed northern boundary wall is to be maintained as existing</li> <li>• the proposed roof form of the new two storey addition has been lowered by 800mm</li> </ul>
Land & Environment Court appeal	Class 1 Appeal lodged 6 December 2007, Neil Broekhuizen v Woollahra Municipal Council, Land and Environment Court Proceedings No.11194 of 2007.  It is noted that the applicant (Mr Broekhuizen) filed the Revision A drawings to the court. These drawings reflected the original drawings lodged with the DA and not the amended plans. As the Revision B plans were not withdrawn by the applicant, this assessment will be based on the amended plans – Revision B submitted to Council on the 21 November 2007.

## 9. REFERRALS

### 9.1 The following table contains particulars of internal referrals.

INTERNAL REFERRALS		
Referral Officer	Comment	Annexure
Technical Services	<p>The application was referred to Mr Daniel Pearse who provided the following referral response:</p> <p><i>Council's Development Engineer has determined that the proposal is generally satisfactory provided the applicant address the following matter;</i></p> <p><i>The architectural plans nominate to "Stabilize and reinstate stone retaining walls to edge" in respect to the retaining walls located on the northern boundary. It is advised that the applicant clarify the extent of these works so Council may assess potential impacts on the neighbouring property. The applicant is required to provide recommendations from their geotechnical consultant if there is potential for the works to alter the support of the neighbouring property.</i></p> <p>The revision B drawings submitted to Council sought to maintain the existing northern boundary wall with no works proposed to this element. As such the outstanding technical services issue was addressed.</p>	2

<p>Landscaping Officer</p>	<p>The application was referred to Ms Vanessa Oakes who provided the following referral response:</p> <p><i>Council's Tree and Landscape Officer has determined that the proposed alterations and additions to the rear (eastern portion) of the existing residence and the proposed pool spa and deck area is satisfactory in terms of tree preservation, subject to compliance with the following Conditions of Consent.</i></p> <p><i>In relation to the widening and resurfacing of the driveway, the proposed treatment of the northern boundary and the alterations and additions to the garage area and front (western portion) of the premises require the following information before further assessment of the application can be undertaken</i></p>	<p>3</p>
<p>Landscaping Officer</p>	<p>The application was referred to Ms Sue Wylie who provided the following referral response:</p> <p><i>Driveway and associated issues were addressed. Other issues have been addressed earlier by Venesser Oakes.</i></p>	<p>4</p>
<p>Heritage Officer</p>	<p>The application was referred to Mr Mario D'Alessio who provided the following referral response:</p> <p><i>The submitted application has not raised any substantial additional heritage issues beyond those assessed in the previously submitted Pre DA application, accordingly it is considered that the proposed development will not result in an adverse heritage impact to the within vicinity heritage items.</i></p> <p><i>The assessment of tree impacts to the existing Cook Pine (Araucaria columnaris), Moreton Bay Fig (Ficus macrophylla) should be further considered by Council Trees Officers and appropriate consent conditions prepared if appropriate.</i></p>	<p>5</p>

## 9.2 The following table contains particulars of external referrals.

No external referrals were required.

## ENVIRONMENTAL ASSESSMENT UNDER S.79C

The relevant matters for consideration under section 79C of the *Environmental Planning and Assessment Act 1979* are assessed under the following headings:

### 10. RELEVANT STATE/REGIONAL INSTRUMENTS AND LEGISLATION

#### 10.1 SEPPs

#### State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. A11679 committing to environmental sustainability measures.

These requirements have been imposed by standard condition prescribed by clause 97A of the *Environmental Planning & Assessment Regulation 2000*.

### **State Environmental Planning Policy No. 55**

Under clause 7 (1) (a) of State Environmental Planning Policy No. 55 – Remediation of Land, consideration has been given as to whether the land is contaminated. An assessment of the *Initial site evaluation* provided by the applicant indicates the land does not require further consideration under clause 7 (1) (b) and (c) of SEPP 55.

### **10.2 REPs**

#### ***Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005***

The subject site is within the area to which the SREP applies. This plan has the following aims with respect to the Sydney Harbour Catchment:

- (a) *to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained:*
  - (i) *as an outstanding natural asset, and*
  - (ii) *as a public asset of national and heritage significance, for existing and future generations,*
- (b) *to ensure a healthy, sustainable environment on land and water,*
- (c) *to achieve a high quality and ecologically sustainable urban environment,*
- (d) *to ensure a prosperous working harbour and an effective transport corridor,*
- (e) *to encourage a culturally rich and vibrant place for people,*
- (f) *to ensure accessibility to and along Sydney Harbour and its foreshores,*
- (g) *to ensure the protection, maintenance and rehabilitation of watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity,*
- (h) *to provide a consolidated, simplified and updated legislative framework for future planning.*

The subject site is within the area to which the SREP applies. The objectives of the Plan are established at Clause 2.

The proposal will not have a visually discernable impact on the Harbour foreshore and will not result in the removal of any significant landscaping. Furthermore, the design of the building would integrate with the existing dwelling and surrounding urban landscape of Point Piper. The proposal is therefore consistent with the objectives of the SREP and is meets the relevant requirements of the SREP.

### **10.3 Section 94 contribution**

Council's Section 94 Contributions Plan is not applicable to the proposal, however a monetary contribution is required under Council's Section 94A Development Contributions Plan 2005. The Section 94A contribution is calculated as follows:

Levy = 1% (levy rate) x \$2,256,238 (proposed cost of development)  
=\$22,563.38

The total contribution =\$22,563.38

This requirement is outlined in **Condition C2**.

## 10.4 Other relevant legislation

None relevant.

## 11. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 1995

### 11.1 Aims and objectives of WLEP 1995 and zone (Clause 8(5))

The proposal is permissible and is consistent with the aims and objectives of the LEP and the relevant objectives of the 2(a) zone, subject to conditions.

### 11.2 Statutory compliance table

Site Area: 1594m <sup>2</sup>	Existing	Proposed	Control	Complies
Overall Height	11.0m	10.3m	9.5m	NO*

\* Existing non-compliance

### 11.3 Site area requirements

Not applicable to this assessment.

### 11.4 Height

The existing building inclusive of the pitched roof form reaches a maximum of 11.0 metres in height. The works proposed above the 9.5 metre height control include the construction of a new south facing dormer and internal modifications within the attic level of the dwelling. The modifications proposed will reach a maximum height of 10.3 metres which is non-compliant with the maximum permissible building height of 9.5 metres for the site. The applicant has submitted an objection prepared in accordance with the requirements of State Environmental Planning Policy No.1 (SEPP 1) to seek a variation to the control.

In their SEPP No.1 objection the applicant argues that non-compliance with this standard is unnecessary and unreasonable as:

- *the proposed development, whilst non complying with the numerical requirements of the building height standard complies with the relevant objectives and performance criteria*
- *no views are impacted*
- *the minor non-compliance is compatible with the adjoining residential neighbourhood*
- *the non-compliance does not impact privacy*
- *this is a minor variation to height with no significant impact because of the existing conditions*
- *this is a unique circumstance and does not establish a precedent. No other local or state ordinance is affected*
- *strict numerical compliance would not improve any neighbouring amenity*

The following assessment of the SEPP 1 Objection applies the principles arising from *Hooker Corporation Pty Limited v Hornsby Shire Council*(NSWLEC, 2 June 1986, unreported) by using the questions established in *Winten Property Group Limited v North Sydney Council*(2001) NSW LEC 46 (6 April 2001).

***Is the planning control in question a development standard?***

The relevant planning control is the Height of Buildings standard set by clause 12 of the Woollahra LEP 1995. Any variation to this standard would require a SEPP 1 objection to be prepared by the applicant.

***What is the underlying purpose of the standard?***

The objectives of the maximum building height for development standards set by Clause 12 are as follows:

- (a) to minimize impact of new development on existing views of Sydney Harbour, ridgelines, public and private open spaces and views of the Sydney City skyline,*
- (b) to provide compatibility with the adjoining residential neighbourhood,*
- (c) to safeguard visual privacy of interior and exterior living areas of neighbouring dwellings,*
- (d) to minimise detrimental impacts on existing sunlight access to interior living rooms and exterior open space areas and minimize overshadowing,*
- (e) to maintain the amenity of the public domain by preserving public views of the harbour and surrounding areas and the special qualities of the streetscapes.*

***Is non-compliance with the development standard consistent with the aims of the Policy, and in particular, would strict compliance with the development standard tend to hinder the attainment of the objectives specified in S.5(a)(I) and (ii) of the EPA Act?***

Having regard to the above-mentioned objectives, the proposed works that exceed the 9.5m height control limit are satisfactory for the following reasons:

- the proposal maintains the existing overall building height
- the non-complying works are predominately contained within the existing building envelope. As such, they will not impact on the amenity of the surrounding neighbours, nor increase the visual bulk of the building when viewed from the surrounding streets or the harbour
- the proposed south facing dormer would match the height and architectural detailing of the immediately adjoining dormer to the east. The inclusion of this element above the 9.5 metre height control will not result in an unreasonable reduction in privacy, loss of view or increased overshadowing on any of the surrounding neighbours
- the proposed works are compatible with the existing building fabric and character and appearance of the area

Following consideration of the arguments presented by the applicant in the SEPP1 submission against the relevant objectives of development standard 12AA of the Woollahra LEP 1995, it is acknowledged that the proposal would uphold the objectives underlying the development standard and in this instance it is successfully argued that compliance with the standard would hinder the attainment of objectives specified in s.5(a)(i) and (ii) of the EPA Act.

***Is compliance with the standard unreasonable or unnecessary in the circumstances of the case?***

The proposal achieves consistency with the objectives of the height of buildings standard and therefore the SEPP 1 objection to this standard is supported. It is recommended that Council resolve to vary the standard in this instance as compliance is considered to be unreasonable and unnecessary.

Paragraph 3 of Circular B1 from the former Department of Planning states-

*“As numerical standards are often a crude reflection of intent, a development which departs from the standard may in some circumstances achieve the underlying purpose of the standard as much as one which complies. In many cases a variation will be numerically small in others it may be numerically large, but nevertheless be consistent with the purpose of the standard.”*

The underlying purpose of the standard as expressed by the objectives under clause 12AA of WLEP 1995 is to achieve compatibility with the height of surrounding development and to safeguard amenity. Having regard to the context of surrounding development and the desired future character objectives for the area it is considered that the underlying purpose of the standard would be achieved.

### ***Is the objection well founded?***

The objection advanced by the applicant that compliance with the development standard is unreasonable and unnecessary is well founded and it is considered that granting of development consent would be consistent with the aims and objectives of SEPP 1.

### **11.5 Floor space ratio**

Not applicable to this assessment for a single dwelling house.

### **11.6 FSBL**

Not applicable to this assessment.

### **11.7 Other special clauses/development standards**

**Clause 18 Excavation:** The proposed development involves excavation to accommodate the footings of the new addition, new swimming pool and some minor levels for landscaping. A maximum excavation depth of 3.25 metres is required to accommodate the founding depth for the piles which are installed for the pool.

A geotechnical investigation report was prepared by Jeffery and Katauskas Pty Ltd. The report makes the following comments in regards to the excavation conditions:

*“The proposed extension may be supported using piled footings founded in the underlying medium dense or dense sands which were encountered at depth between 1.9m and 2.9m below existing ground level”.*

*“The founding depth for piles which are installed for the pool over the embankment should be increased by 30% to take the slope of the embankment into account (ie. A minimum depth of 3.25m is recommended)”.*

Cl.18 of WLEP 1995 requires Council to have regard to how that excavation may temporarily or permanently affect:

- (a) *the amenity of the neighbourhood by way of noise, vibration, dust or other similar circumstances related to the excavation process, and*
- (b) *public safety, and*

- (c) *vehicle and pedestrian movements, and*
- (d) *the heritage significance of any heritage item that may be affected by the proposed excavation and its setting; and*
- (e) *natural landforms and vegetation, and*
- (f) *natural water runoff patterns.*

The provisions of Cl.18 are addressed as follows:

The temporary amenity impacts are assessed as follows:

- (i) Noise: The excavation process will cause noise impacts. Condition E6 of the consent limits the hours when excavation may occur and the duration of the excavation.
- (ii) Vibrations: Subject to the amended plans showing the retention of the existing northern wall, it was considered by Council's Technical Services department that no vibration conditions were required.
- (iii) Dust: Condition E10 & E11 requires the applicant to implement appropriate measures to control dust.
- (iv) Erosion: Condition E10 & E11 requires the applicant to implement best practice techniques to control erosion from the site.
- (v) Support to existing land and building both within the site and neighbouring site: Subject to the amended plans showing the retention of the existing northern wall, it was considered by Council's Technical Services department that no additional support to existing land and building both within the site and neighbouring site was required.
- (vi) Ground Water: The geotechnical and hydrogeological investigation did not encounter ground water. *"The proposed alterations and additions are unlikely to encounter the groundwater level and will therefore have no effect on groundwater flow beneath or adjacent to the site. No further investigations or preventative measures in this respect are therefore considered necessary"*.
- (vii) On-site processing of excavated materials: It is not proposed to process excavated material on-site.

The permanent amenity impacts of the proposed excavation are assessed as follows:

- (i) Landform: Following consideration by Council's Tree and Landscaping officer, the location and extent of excavation would not impact on any significant vegetation that is to be retained on site.
- (ii) Support to existing land and building both within the site and neighbouring site: It is anticipated that when completed the development will result in a high level of geotechnical stability across the site and surrounding properties.
- (iii) Ground water levels: The proposal will not intersect with any ground water.

Subject to conditions, the proposed excavation is acceptable in terms of Clause 18.

**Clause 19 HFSPA:** Clause 19(2) of the WLEP 1995 requires Council to undertake an assessment of:

- (a) *the visual impact when viewed from Sydney Harbour of the design of the proposed development, including the colours, textures, styles and types to be used and the type and form of any roof, and*
- (b) *the impact of the proposed development on the natural landform and topography*

The proposed alterations and additions to the dwelling will generally be sited to the west of the dwelling, whereby they will be screened from the harbour by the existing building. The proposed attic east facing balcony and proposed swimming pool will not be visually discernible from the Harbour and will generally maintain the natural landform (excluding excavation required to support the piers for the new pool structure) of the site.

The proposal satisfies clause 19(2) of the Woollahra LEP 1995.

**Clause 24 Land adjoining public open space:** The proposal is acceptable in terms of Clause 24(2).

**Clause 25 Water, wastewater and stormwater:** The proposal is acceptable in terms of Clause 25(1) and (2).

**Clause 25D Acid Sulfate Soils:** The proposed works do not require the need for an assessment of acid Sulfate soils under clause 25D of Woollahra LEP 1995.

**Clauses 26-33 Heritage and conservation area provisions:** Located within the subject site are two listed heritage items (Norfolk Pine and Moreton Bay Fig Tree). The proposal seeks to undertake works that preserve both heritage items that are located on the site. Council's Trees and landscaping department and heritage officer have concluded that the works subject to conditions will not unreasonably impact on the significance, health and longevity of the heritage items.

Within the immediate vicinity of the site is the following heritage listed items:

- 10 Dunara Gardens, Point Piper House
- 592A New South Head Road, Rose Bay Police Station
- Wolseley Road within road reserve Norfolk Island Pine (*Araucaria hetrophylla*)

The proposed alterations to the dwelling, garaging and associated swimming pool and landscaping works would not impact on the significance of this surrounding items or their curtilage.

The site is not located within a heritage conservation area.

The proposal is acceptable having regard to clauses 26 – 33 of the Woollahra LEP 1995.

## **12. DRAFT AMENDMENTS TO STATUTORY CONTROLS**

### **Draft State Environmental Planning Policy (Application of Development Standards) 2004 applies**

Section 79C(1)(a)(ii) of the Act requires that in determining a development application, a consent authority is to take into consideration any **draft environmental planning instrument "EPI"** that is or has been placed on public exhibition and details of which have been notified to the consent authority.

Draft State Environmental Planning Policy (Application of Development Standards) 2004 ("the proposed SEPP") was publicly exhibited from 10 May to 18 June 2004. In considering how much weight should be placed upon an exhibited draft environmental planning instrument under section 79C of the Act one must assess how likely it is that the draft EPI will commence, in what form it is likely to commence and consider what effect the instrument would have if applied.

The proposed SEPP received significant criticism from the development industry in submissions. Officers of DIPNR have advised that it will not be made in the form it was exhibited and that it will now be included as part of the new Integrated LEP Template. This template will be placed on public exhibition in late April/May 2005. Therefore, it is not known in what form the draft SEPP will be made.

Clause 14 of the draft SEPP provides Saving and Transitional provisions. These provisions provide that any application submitted prior to the commencement of the proposed SEPP and within 28 days after the commencement of the proposed SEPP is to be determined in accordance with the former SEPP No.1 as if the former SEPP No.1 had not been repealed by the proposed SEPP. It is likely that the draft SEPP, if made, will contain transitional provisions.

The draft SEPP would, if it commenced in its exhibited form, require a higher threshold test in order for an objection against a development standard to be sustained. However, the draft policy should not be given determining weight in the assessment of development applications for the following reasons:

1. The draft SEPP will not be made in the form it was exhibited
2. It is not known whether the threshold tests contained in the exhibited SEPP will be retained
3. It is likely that, if made, the draft SEPP will contain savings and transitional provisions.

This means that objections submitted under State Environmental Planning Policy No.1 must be assessed under the current policy.

**Amendment 60 of the Draft Woollahra LEP 1995 is not relevant to this assessment.**

### 13. DEVELOPMENT CONTROL PLANS

#### 13.1 Numeric Compliance table - Woollahra Residential Development Control Plan 2003

Site Area (1594m <sup>2</sup> )	Existing	Proposed	Control	Complies
Maximum Number of Storeys – Dwelling	2 + attic	2 + attic	2	Yes
Building Boundary Setbacks				
Front (west)	0m	1.32m	4m	<b>NO*</b>
Rear (east)	20.5m	18.6m	14.5m	Yes
Side (north)				
Ground Floor	0m	3.4m	3.0m	Yes
First Floor	5m	5m	3.5m	Yes
Side (south)				
Ground Floor	1.5m	1.5m	3.0m	<b>NO*</b>
First Floor	1.5m	1.5m	3.5m	<b>NO*</b>
Ancillary Development (Swimming pool)				
Maximum Height	N/A	2.6m	3.6m	Yes
Rear Setback (east)	N/A	6.07m	1.5m	Yes
Side Setback (north)	N/A	3.0m	1.5m	Yes
Side Setback (west)	N/A	11.6m	1.5m	Yes
Setback from Significant Mature Trees	>3.0m	>3.0m	3.0m	Yes
Building Footprint	19% (300m <sup>2</sup> )	30% (488m <sup>2</sup> )	30% (478.2m <sup>2</sup> )	Yes
Floor Space Ratio	0:47:1 (756.85m <sup>2</sup> )	0:58:1 (937.85m <sup>2</sup> )	0:55:1 (876.7m <sup>2</sup> )	<b>NO</b>
Floor to Ceiling Height – Habitable Rooms	2.7m	2.7m	2.7m	Yes

<b>Site Area (1594m<sup>2</sup>)</b>	<b>Existing</b>	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Solar Access to Open Space of Adjacent Properties (Hrs on 21 June)	50% >2 hours	50% >2 hours	50% (or 35m <sup>2</sup> ) for 2 hours	Yes
Solar Access to Nth Facing Living Areas of Adjacent Properties (Hrs on 21 June)	>3.0 hours	>3.0 hours	3.0 hours	Yes
Excavation Piling and Subsurface Wall Setback	>1.5m	>1.5m	1.5m	Yes
Deep Soil Landscaping – Dwelling	61% (680m <sup>2</sup> )	62% (695m <sup>2</sup> )	50% (557m <sup>2</sup> )	Yes
Deep Soil Landscaping – Front Setback	28% (120m <sup>2</sup> )	40% (175m <sup>2</sup> )	40% (173m <sup>2</sup> )	Yes
Private Open Space at Ground Level – Total	300m <sup>2</sup> >3m	343m <sup>2</sup> >3m	35m <sup>2</sup> Min dimension 3m	Yes
Private Open Space at Ground Level – Principal Area	150m <sup>2</sup> Min dim 7m	200m <sup>2</sup> Min dim 8m	16m <sup>2</sup> Min dimension 4m	Yes
Private Open Space at Ground Level – Maximum Gradient	<1:10	<1:10	1:10	Yes
Location of Swimming Pool	N/A	Rear Setback	Rear Setback	Yes
Swimming Pool Setback from Significant Mature Trees	N/A	8.5m	3.0m	Yes
Swimming Pool Excavation, Piling and Subsurface Wall Setback	N/A	3.0m	1.5m	Yes
Swimming Pool Height Above Ground Level Adjacent to Adjoining Property	N/A	2.6m	0.3m	<b>NO</b>
Swimming Pool Height Above Ground Level Adjacent to the HFSPA	N/A	2.6m	0.3	<b>NO*</b>
Side and Rear Fence Height	Varied	1.8m	1.8m	Yes
Solar Access to North-Facing Living Areas of Development (Hrs on 21 June)	>3.0 hours	>3.0 hours	3.0 hours	Yes
Minimum Number of North Facing Habitable Rooms	7	9	1	Yes
Setback of Bedroom Windows from Streets/Parking Areas of Other Dwellings	>3.0m	>3.0m	3.0m	Yes
Location of Garages and Car Parking Structures	Front Setback	Front Setback	Behind Front Setback	<b>NO*</b>
Car Parking Spaces – Dwellings	2	2	2	Yes
Minimum Access Driveway Width	4.0m	4.0m	3.5m – 6.0m	Yes
Area of Lockable Storage Spaces per Dwelling	>8m <sup>3</sup>	>8m <sup>3</sup>	8m <sup>3</sup>	Yes

\* Existing non-compliance

### Site analysis performance criteria (*Part 3*)

The proposal would satisfy the relevant site analysis performance criteria of the RDCP 2003.

### Desired future precinct character objectives and performance criteria (*Part 4*)

The subject site is located within the Point Piper Precinct. The proposal generally accords with the precinct controls, excluding the following non-compliances:

- C4.5.4 of the RDCP - the proposed garage addition does not comply with the 3.0 metre side setback required from the southern boundary
- C4.5.5 of the RDCP - the location of the garage structure forward of the front building line

The above mentioned non-compliances are acceptable for the following reasons:

- the new garage is to replace the existing garage that is built to the boundary. Whilst it is accepted that the works result in a 1.5 metre non-compliance with the control, the works facilitate an improvement beyond the existing condition
- the appearance of the non-complying side boundary setback will be softened by the existing landscaping that is located adjacent to the boundary of the subject site
- given the site is a battle axe allotment, the siting of the garage forward of the front building line will “*not dominate the streetscape*” in accordance with the requirements of C4.5.5 of the RDCP. Furthermore the proposed garage location will not be visible from the public domain.

For the above mentioned reasons, departure from the controls is acceptable given the circumstances of the site. In addition, the proposal would satisfy the relevant objectives of the Point Piper Precinct.

### **Streetscape performance criteria (Section 5.1)**

The site is a battle axe allotment with an existing single driveway fronting Wentworth Street. The existing buildings located on site are not readily visible from Wentworth Street as the surrounding residential properties obscure views of the body of the site. The proposed works seek to improve the relationship between the site and Wunulla Road by providing a pedestrian access gate, thus restoring the historic access that previously existed.

The proposal would satisfy the relevant criteria of the RDCP 2003.

### **Building size and location performance criteria (Section 5.2)**

The proposed alterations and additions represent a non-compliance with the following aspects of Part 5.2 of the RDCP:

- FSR
- side (south) boundary setback - attic dormer
- front setback

The above mentioned departures from the control are acceptable in the circumstances of the site as:

- the numeric non-compliance with FSR is limited to 3% above the permissible ratio for the site. Whilst concern has been received from the surrounding neighbours regarding the scale of the development proposed, the new addition generally accords with the permissible building envelope for the site. The only elements of the proposed works that do not accord with the building envelope controls are the southern section of the garaging at ground floor (discussed above) and the proposed attic level south facing dormer. Neither of these elements will un-reasonably impact on sunlight or privacy currently enjoyed by the surrounding neighbours

- approximately 150m<sup>2</sup> of gross floor area is contained within the existing attic level of the building. Given the utilisation of the roof space does not increase the bulk of the building when viewed from the surrounding properties and does not impact upon the amenity of the surrounding neighbours a case could be put that the utilisation of the roof space should not constitute gross floor area and as such contribute to FSR calculations. If this roof area was to be discounted from the FSR calculations, the building would have a complying ratio of 0.49:1, thus achieving the numeric control for the site
- the proposed attic dormer is to adjoin an existing attic dormer. Given the sill height of the new window and the setback from the internal space, views will only be afforded onto the open space areas of the neighbours property when one walks right up to the window. Given the existing condition already facilities the ability to partially overlook the adjoining neighbours to the south (much of the downward visible perspective is screened by the existing vegetation), the inclusion of an additional window adjoining the existing window is not unreasonable
- as previously discussed, the non-compliance with the front setback is appropriate as the location of the proposed works within the battle-axe allotment will not detriment the streetscape

It is noted that concern has been raised from an adjoining neighbour regarding the location and height of the proposed swimming pool. This ancillary structure would satisfy the location and permissible height requirements as specified in C5.2.4 of the RDCP.

Concern was also filed from the adjoining eastern neighbour regarding the overshadowing impact the proposal would create on the east facing habitable room windows of the lower and middle level of the building and the overshadowing of the rear open space / swimming pool. Following assessment of the detailed shadowing information provided by the applicant, it was determined that the proposal would satisfy the numeric requirements prescribed by the RDCP for sunlight access to windows and sunlight to open space areas. Furthermore, it is noted that the applicant has a large roof terrace / open space area above the building that would receive uninterrupted levels of sunlight throughout the day.

### **Open space and landscaping performance criteria (Section 5.3)**

The proposed works satisfy the open space and deep soil landscaping requirements in C5.3.2 & C5.3.4 of the RDCP. Furthermore, Council's Trees and Landscaping officer and Heritage officer have determined that the development proposal is satisfactory in terms of tree preservation and landscaping subject to compliance with conditions imposed on the consent.

Whilst the proposed swimming pool achieves the requirements of C5.3.16 through to C5.3.19, the height of the swimming pool does not achieve the requirements of C5.3.20. The merits of this non-compliance will be discussed within the HFSPA controls below.

C5.3.21 specifies that where the sides of the swimming pool are greater than 300mm above existing ground level, the protruding elevation is required to be screened or treated where the structures can be seen from the public domain or adjoining properties. The swimming pool will be visible from the lower neighbour's property and will be partially visible from Wunulla Road. As such the applicant has proposed screening vegetation along the eastern elevation of the swimming pool. **Condition C1.a** has been imposed on the consent which requires that the plantings are planted at a sufficient height to screen the eastern elevation of the swimming pool, thus ensuring that the screen species serve their purpose immediately.

O5.3.6 of the RDCP seeks to ensure that the location of swimming pools does not have a detrimental impact on the amenity of private and public lands. Concern has been raised from an adjoining neighbour that the height and location of the swimming pool would detrimentally impact upon the levels of privacy currently enjoyed by the adjoining neighbour. Following a site inspection to all relevant properties it was concluded that the design of the proposal and that the location of the swimming pool would be setback a sufficient distance from the private open space areas and habitable room windows of the adjoining neighbour (see figure 5.8.4 of the RDCP which provides a reference of 9 metres) to ensure that the new pool does not unreasonably detriment the amenity of the adjoining neighbour.

Relevant acoustic conditions have been imposed on the consent to ensure that the associated plant equipment satisfies the relevant acoustic requirements of Council.

Subject to conditions, the proposal would satisfy the relevant objectives and performance criteria of the RDCP.

#### **Fences and walls performance criteria (*Section 5.4*)**

The proposal would satisfy the relevant objectives and performance criteria of the RDCP 2003.

#### **Views performance criteria (*Section 5.5*)**

The proposal would not impact on any significant views from the public and private domain. As such the proposal satisfies the relevant objectives and performance criteria of the RDCP 2003.

#### **Energy efficiency performance criteria (*Section 5.6*)**

The proposal subject to compliance with the submitted BASIX certificate would satisfy the relevant energy efficiency objectives of the RDCP 2003.

#### **Stormwater management performance criteria (*Section 5.7*)**

The proposal has satisfied Council Technical Services department subject to conditions and would satisfy the relevant stormwater management objectives and performance criteria of the RDCP 2003.

#### **Acoustic and visual privacy performance criteria (*Section 5.8*)**

The proposal seeks to increase the number of first floor windows on the northern elevation of the dwelling. As the majority of the proposed new windows will interface with the front garden and open space area of the adjoining neighbour and are significantly offset from the neighbours habitable room windows, there is no requirement for these windows to be screened.

The proposed attic level balcony and new east facing windows will overlook the rear open space area of the site. Whilst concern has been raised from the adjoining eastern neighbour regarding potential to overlook their property, the separation distance is in excess of 20 metres and would satisfy the 9.0 distance required by the RDCP 2003.

The proposed south facing attic window (as discussed previously) includes a sill height of 1.3 metres and is setback 1.0 metre from the main body of the lounge area. This setback and sill height would ensure that the internal occupants would only be afforded horizontal line of site when occupying the lounge area. The measures proposed are considered adequate to preserve the visual privacy of the neighbouring southern properties.

Acoustic conditions relevant to the proposed swimming pool and spa plant have been imposed on the consent.

The proposal would satisfy the relevant objectives and performance criteria of the RDCP 2003.

#### **Car parking and driveways performance criteria (Section 5.9)**

The location and number of car parking spaces on site has satisfied Council's Technical Services Department and would satisfy the relevant objectives and performance criteria of the RDCP 2003.

Furthermore, the revisions to the driveway access have satisfied Council's Trees and Landscaping department.

#### **Site facilities performance criteria (Section 5.10)**

The proposal would satisfy the relevant objectives and performance criteria of the RDCP 2003.

#### **Harbour foreshore development performance criteria (Section 5.11)**

The subject site is located within the Harbour Foreshore Scenic Protection Area. The objectives of this area are to:

- *protect the scenic quality of the natural landscape and built environment as viewed from Sydney harbour*
- *protect indigenous flora and fauna habitats and minimal disturbance of ecological communities*
- *conserve the natural land and water interface and reinforce the natural character of the foreshore*

Having regard to the steeply sloping topography of the rear of the site, the applicant has proposed a swimming pool that will be a maximum height of 2.6 metres above existing ground level. This represents a significant departure from the 300mm control specified in C5.11.5 of the RDCP. Whilst it is accepted that there is a numeric departure from the control, the applicant has provided substantial screening to minimise the visual impact of the development when viewed from the land surrounding the site. Furthermore, the proposed swimming pool is not visually discernible from the harbour as it is obscured by the existing development of 4 Wunulla Road and the vegetation located along the foreshore areas and within the public open space.

The proposal would satisfy all of the above objectives relevant of the HFSPA.

#### **Mixed development in business zones performance criteria (Section 5.12)**

Not applicable to this assessment.

#### **Access and mobility performance criteria (Section 5.13)**

The proposal would satisfy the relevant access and mobility objectives and performance criteria of the WRDCP 2003.

#### **Inter-war flat buildings performance criteria (Section 5.14)**

Not applicable to this assessment.

### **13.2 DCP for off-street car parking provision and servicing facilities**

The proposal would satisfy the relevant requirements of this DCP.

### **13.3 Woollahra Access**

The proposal would improve access within the existing single dwelling.

### **13.4 Other DCPs, codes and policies**

None relevant.

## **14. APPLICABLE REGULATIONS**

All applicable regulations have been included as conditions of consent.

## **15. THE LIKELY IMPACTS OF THE PROPOSAL**

All likely impacts of the proposal have been considered elsewhere in this report.

## **16. THE SUITABILITY OF THE SITE**

The site is within a Class 5 Acid Sulfate Soil area identified in the Planning NSW Acid Sulfate Soil Risk Map. The site is therefore considered suitable for the proposed development.

## **17. SUBMISSIONS**

The proposal was advertised and notified in accordance with Council's Advertising and Notifications DCP. Eleven (11) submissions were received from:

- Mr Mark Alexander – 22 Wolseley Road, Point Piper
- Mr Joseph Orlievski – 24 Wolseley Road, Point Piper
- Mr James Wang – 9 Dunara Gardens, Point Piper
- F.S Doust – 13 Wolseley Road, Point Piper
- A.K. Malouf – 2B Wentworth Street, Point Piper
- Mr Ash Samadi – 15 Wolseley Road, Point Piper
- Mr Bruce Liu – 4 Wunulla Road, Point Piper
- Mr Warwick Mirzakinian – 6a Wentworth Street, Point Piper
- Moody & Doyle on Behalf of Mr & Mrs Liu of 4 Wunulla Road.
- Ms Catriona Mackenzie on behalf of Mr & Mrs Liu of 4 Wunulla Road.
- ABC Planning on behalf of Mr Ash Samadi, F.S Doust , Mr. M Chapman (50 Wolseley Rd)

The objectors raised the following issues:

- Non-complying Floor Space Ratio;

This has been addressed within section 13.1 of this report.

- Loss of Privacy;

This has been addressed within section 13.1 of this report.

- Visual Impact of the swimming pool;

This has been addressed within section 13.1 of this report.

- Acoustic impact from pool plant equipment;

This has been addressed within section 13.1 of this report.

- Impacts of the development on established vegetation;

This has been addressed within section 13.1 of this report.

- Non-complying side setback;

This has been addressed within section 13.1 of this report.

- Overshadowing open space areas;

This has been addressed within section 13.1 of this report.

- Overshadowing habitable rooms of adjoining neighbours;

This has been addressed within section 13.1 of this report.

- Existing garage constructed without Council consent;

A search of Council's records could not conclusively demonstrate that the garage forward of the front building line had been illegally constructed.

#### ***AND/OR***

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

### **18. CONCLUSION - THE PUBLIC INTEREST**

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

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

THAT the Council, as the consent authority, is of the opinion that the objection under *State Environmental Planning Policy No. 1 – Development Standards* to Clause 12 Building 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 proposed built form is acceptable given the context of the site.

**AND**

THAT the Council, as the consent authority, being satisfied that the objection under SEPP No. 1 is well founded and also being of the opinion that the granting of consent to Development Application No. 372/2007 is consistent with the aims of the Policy, grant development consent to DA No. 372/2007 for substantial alterations and additions including a new two storey addition, swimming pool and deck and widening of a driveway on land at 1 Wentworth Street, Point Piper subject to the following conditions:

**A. General Conditions**

**A.1 Conditions**

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

Standard Condition: A1

**A.2 Definitions**

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

*Applicant* means the applicant for this Consent.

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

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

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

*Council* means Woollahra Municipal Council

*Court* means the Land and Environment Court

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

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

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

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

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

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

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

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

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

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

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

*Site* means the land being developed subject to this consent.

*WLEP 1995* means *Woollahra Local Environmental Plan 1995*

*Work* for the purposes of this consent means:

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

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

Standard Condition: A2

### A.3 Approved Plans and supporting documents

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

Reference	Description	Author/Drawn	Date(s)
A01B-A07B (inclusive)	Architectural Plans	MHDP	9 November 2007
A11679	BASIX Certificate	Department of Planning	5 June 2007
	Construction Management Plan	Mark Hurcum Design Practise	June 2007
Treescan	Tree Report including Construction Impact Statement and Plan of Management	David Ford	May 2007
051004	Details & Levels Plan	Denny Linker & Co	08/11/2005
0635 A01	Location Plan & Overall Site Plan	Mark Hurcum Design Practice	December 2006
0635 A02	Floor Plan – Ground Floor	Mark Hurcum Design Practice	December 2006
0635 A03	Floor Plan – First Floor	Mark Hurcum Design Practice	December 2006
Refer to Rprt No. 21075Zrpt	Geotechnical Report	Jeffery & Katauskas Pty Ltd	4 <sup>th</sup> April 2007
Job No. 07403 Dwgs C02 and C07	Stormwater disposal concept plan	Northrop Consulting Engineers	8 <sup>th</sup> June 2007
Job No.n 07403 Dwgs C06 Rev 3	Soil Erosion & Sediment Control Plan	Northrop Consulting Engineers	8 <sup>th</sup> June 2007
	Survey Plan No 07092 Issue B	Denny Linker & Co	8/11/05
	Arborist Report	Treescan	October 2007

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

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

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

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

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

## A.5 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](http://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 Establishment of Tree Protection Zones

b) The following trees must be transplanted and successfully established in the location(s) indicated on the approved landscape plan:

Council Reference No:	Species	Location	Dimension (Metres)
6	<i>Howea forsteriana</i> Kentia Palm	North side of driveway	3m
7	<i>Howea forsteriana</i> Kentia Palm	North side of driveway	6m
8	<i>Howea forsteriana</i> Kentia Palm	North side of driveway	3m

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

Or

c) The following trees may be removed:

Council Reference No:	Species	Location	Dimension (Metres)
5	<i>Cinnamomum camphora</i> Camphor Laurel	North side of driveway	14m

2	<i>Syagrus romanzoffianum</i> Cocos Palm	North side of driveway	3m
6	<i>Howea forsteriana</i> Kentia Palm	North side of driveway	3m
7	<i>Howea forsteriana</i> Kentia Palm	North side of driveway	6m
8	<i>Howea forsteriana</i> Kentia Palm	North side of driveway	3m

**Note:** The tree trees that may be removed should appear coloured red on the construction certificate plans.  
Standard Condition: B5

### B.3 Establishment of Tree Protection Zones

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

(a) Tree Protection Zone areas

Council Reference No:	Species	Location	Radius from Trunk (Metres)*
Ac	<i>Araucaria columnaris</i> Cook Pine	Adjacent to existing gate at western end of driveway	6.0
Fm	<i>Ficus macrophylla</i> Moreton Bay Fig	Rear Yard, adjacent to southern boundary	10.0
Other	Various undocumented tree species	Various	Min 2.0

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

(b) Tree Protection Zones are to be fenced with a 1.8 metre high chainmesh or weldmesh fence to minimise disturbance to existing ground conditions. The area within the fence must be mulched, to a depth of 75mm, irrigated and maintained for the duration of the construction works.

Where access is required within the Tree Protection Zones an elevated rigid structure appropriate to access is required to minimise soil compaction. Also see the Plan of Management section of the Tree Report prepared by David Ford.

(c) Trunk protection, to a maximum height permitted by the first branches, is to be installed around the trunks of the trees listed in the table below;

Council Reference No:	Species	Location
Ac	<i>Araucaria columnaris</i> Cook Pine	Adjacent to existing gate at western end of driveway

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

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

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

Standard Condition: B5

#### **B.4 Landscape Plan**

An Landscape Plan, prepared by a qualified Landscape Architect or Landscape Designer, to a scale of 1:100 or 1:200, conforming to the conditions of this Development Consent is to be submitted to Council for approval prior to issue of the Construction Certificate. The plan must include a detailed planting schedule, which must include species listed by botanical and common names, quantities of each species, pot sized, and the estimated size of the plant at maturity.

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

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

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

- a. The proposed screen planting along the eastern elevation of the swimming pool are to be planted with a minimum RL height of 26.82.

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

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

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

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

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

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

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

Description	Amount	Indexed	Council Fee Code
<b>LONG SERVICE LEVY</b> under Building and Construction Industry Long Service Payments Act 1986			
<b>Long Service Levy</b> Use Calculator: <a href="http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm">http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm</a>	Contact LSL Corporation or use their online calculator	No	
<b>SECURITY</b> under section 80A(6) of the Environmental Planning and Assessment Act 1979			
<b>Property Damage Security Deposit -</b> 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.	\$47,000	No	T600
<b>DEVELOPMENT LEVY</b> under Woollahra Section 94A Development Contributions Plan 2005 This plan may be inspected at Woollahra Council or downloaded from our website <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> .			
Development Levy	\$22,563.38+ Index Amount	Yes, quarterly	T94
<b>INSPECTION FEES</b> under section 608 of the Local Government Act 1993			
Public Tree Management Inspection Fee	\$155.00	No	T95
Security Administration Fee	\$163	No	T16
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	\$69,881.38 <b>Plus any relevant indexed amounts and long service levy</b>		

## **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?**

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**

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

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

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

- a. the guarantee is by an Australian bank for the amount of the total outstanding contribution;

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

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

Standard Condition: C5

### C.3 BASIX commitments

The *applicant* must submit to the *Certifying Authority BASIX Certificate* No A11679 with any application for a *Construction Certificate*.

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

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

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

Standard Condition: C7

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

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

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

Specific works include:

- a. Full reconstruction of the concrete driveway crossing and kerb laybacks. The design and construction of the driveway crossing must be in accordance with Councils standard drawing RF2. Boundary levels and footpath 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](http://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:** When a large *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

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

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

Standard Condition: C13

## C.5 Soil and Water Management Plan – Submission & Approval

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

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

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

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

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

**Note:** The "*Do it Right On Site, Soil and Water Management for the Construction Industry*" publications can be downloaded 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 be satisfied as to this matter.

Standard Condition: C25

## C.6 Tree Management Details

The *Construction Certificate* plans and specifications required by clause 139 of the *Regulation* must, show the following information;

- a. trees to be numbered in accordance with these conditions,
- b. shaded green where required to be protected and retained,
- c. shaded yellow where required to be transplanted,
- d. shaded blue where required to be pruned,
- e. shaded red where authorised to be removed and,

- f. references to applicable tree management plan, arborists report, transplant method statement or bush regeneration management plan.  
Standard Condition: C30

### **C.7 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.8 Professional Engineering Details**

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

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

**Note:** This does not affect the right of the developer to seek staged Construction Certificates  
Standard Condition: C36

### **C.9 Bicycle, Car and Commercial Parking Details**

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

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

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

### **C.10 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](http://www.woollahra.nsw.gov.au)

Standard Condition: C49

### C.11 Swimming and Spa Pools – Child Resistant Barriers

The *Construction Certificate* plans and specifications required by clause 139 of the *Regulation* must demonstrate compliance (by showing the proposed location of all child-resistant barriers and the resuscitation sign) with the provisions of the *Swimming Pools Act* 1992.

**Note:** A statement to the effect that isolation swimming pool fencing complying with AS1926 will be installed does not satisfy this condition. The location of the required barriers and the sign must be detailed upon the *Construction Certificate* plans.

Standard Condition: C55

### C.12 Swimming and Spa Pools – Backwash

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

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

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

### **C.13 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](http://www.aaac.org.au)).  
Standard Condition: C62

### **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 Adjoining buildings founded on loose foundation materials

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

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

Standard Condition: D6

## D.3 Establishment of Tree Protection Zones

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

(a) Tree Protection Zone areas

Council Reference No:	Species	Location	Radius from Trunk (Metres)*
Ac	<i>Araucaria columnaris</i> Cook Pine	Adjacent to existing gate at western end of driveway	6.0
Fm	<i>Ficus macrophylla</i> Moreton Bay Fig	Rear Yard, adjacent to southern boundary	10.0
Other	Various undocumented tree species	Various	Min 2.0

(b) Tree Protection Zones are to be fenced with a 1.8 metre high chainmesh or weldmesh fence to minimise disturbance to existing ground conditions. The area within the fence must be mulched, to a depth of 75mm, irrigated and maintained for the duration of the construction works.

Where access is required within the Tree Protection Zones an elevated rigid structure appropriate to access is required to minimise soil compaction. Also see the Plan of Management section of the Tree Report prepared by David Ford.

(c) Trunk protection, to a maximum height permitted by the first branches, is to be installed around the trunks of the trees listed in the table below;

Council Reference No:	Species	Location
Ac	<i>Araucaria columnaris</i> Cook Pine	Adjacent to existing gate at western end of driveway

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

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

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

**Note:** Water Restrictions take precedence over this condition. Having regard to water restrictions manual hosing may be necessary.

Standard Condition: D8

#### D.4 Construction Management Plan

The construction management plan proposes to stand construction vehicles on the driveway during concrete pours. As there appears to be a neighbouring garage that is accessed via this driveway, this activity would prevent vehicle access to the garage.

The implementation of the construction management plan is therefore subject to consent from the affected property owner. The consent must be in writing and submitted to the Accredited Certifier prior to commencement of works.

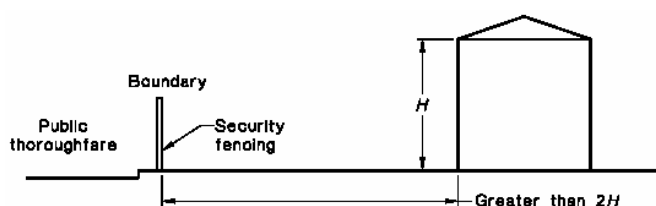
If consent is not forthcoming, the construction management plan must be revised to address the matter and must be submitted to and approved by Council's Development Engineer before the commencement of demolition, excavation or construction works.

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

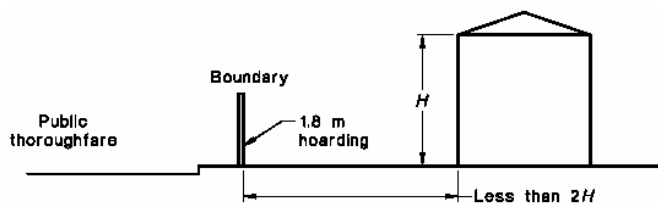
Standard Condition: D9

#### D.5 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.

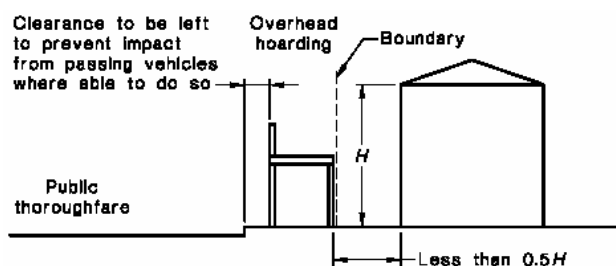


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either

- 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/oheadprotstructs.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.6 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.7 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.8 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](http://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.9 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](http://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.10 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 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989**

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

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

This condition does not apply:

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

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

Standard Condition: E1

## **E.2 Compliance with Australian Standard for Demolition**

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

Standard Condition: E2

## **E.3 Compliance with Construction Management Plan**

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

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

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

Standard Condition: E3

## **E.4 Requirement to notify about new evidence**

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

Standard Condition: E4

## **E.5 Critical Stage Inspections**

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

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

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

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

Standard Condition: E5

## E.6 Hours of Work –Amenity of the neighbourhood

- a. No *work* must take place on any Sunday or public holiday,
- b. No *work* must take place before 7am or after 5pm any weekday,
- c. No *work* must take place before 7am or after 1pm any Saturday, and
- d. No piling, 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/nlg.htm>.

**Note:** see [http://www.epa.nsw.gov.au/resources/ci\\_build\\_sheet7.pdf](http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf)  
Standard Condition: E6

## E.7 Maintenance of Vehicular and Pedestrian Safety and Access

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

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

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

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

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

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

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

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

Part C Management of Waste:

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

Part E Public roads:

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

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

## E.8 Tree Preservation

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

### General Protection Requirements:

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

- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the qualified arborist or where specific instructions are given by Council's Tree Management Officer in strict accordance with such Council instructions.

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

## E.9 Tree Preservation & Approved Landscaping Works

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

- a) The following trees must be retained:

### Trees on Private Land

Council Reference No:	Species	Location	Dimension (Metres)
Ac	<i>Araucaria columnaris</i> Cook Pine	Adjacent to existing gate at western end of driveway	10
Fm	<i>Ficus macrophylla</i> Moreton Bay Fig	Rear Yard, adjacent to southern boundary	12+
Other	Various undocumented tree species, unless specific permission to remove is granted.	Various	varies

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

- c) The following trees may be removed:

Council Reference No:	Species	Location	Dimension (Metres)
Nil unless permission is granted, in writing, at a later stage			

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

- d) The following trees may be pruned in accordance with Australian Standard AS 4373 – 2007 “Pruning of Amenity Trees” and Workcover NSW Code of Practice Amenity Tree Industry, 1998 to the minimum extent necessary to provide clearance to the new development:

Council Reference No:	Species	Location	Approved pruning specification (extent of pruning)
Fm	<i>Ficus macrophylla</i> Moreton Bay Fig	Rear Yard, adjacent to southern boundary	Selective pruning of branches up to 50mm diameter up to a maximum of 10% of the tree canopy to allow for construction of proposed pool

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

**Note:** Approval for pruning is granted only to allow for construction of pool. Regular pruning to reduce fruit fall etc is not permitted.

**Note:** Water Restrictions take precedence over this condition.

**Note:** Having regard to water restrictions manual hosing may be necessary.  
Standard Condition: E9

## E.10 Maintenance of Environmental Controls

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

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

**Note 1:** See [http://www.epa.nsw.gov.au/small\\_business/builders.htm](http://www.epa.nsw.gov.au/small_business/builders.htm) for additional information.  
Standard Condition: E11

## E.11 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.12 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.13 Filling of site

To the extent that this consent permits filling of the site such fill must be *virgin excavated natural material* (“VENM”).

*VENM* means “*Virgin excavated natural material (such as clay, gravel, sand, soil and rock) that is not mixed with any other type of waste and which has been excavated from areas of land that are not contaminated with human-made chemicals as a result of industrial, commercial, mining or agricultural activities and which do not contain sulphidic ores or soils.*”

**Note:** This definition is the same as in Schedule 1 of the *Protection of the Environment Operations Act 1997*, Appendix IX: Types of waste.

**Note:** Sulphidic ores and soils are commonly known as Acid Sulphate Soils.

**Note:** If a person transports waste to a place (the site) that cannot lawfully be used as a waste facility for that waste: (a) the person, and, (b) if the person is not the owner of the waste, the owner, are each guilty of an offence under section 143 of the *Protection of the Environment Operations Act 1997*.

**Note:** A person who is the owner or occupier (principal contractor) of any land that cannot lawfully be used as a waste facility and who permits the land to be used as a waste facility is guilty of an offence under section 144 of the *Protection of the Environment Operations Act 1997*.

**Note:** Additional information is available from the following websites:

**Illegal waste dumping** - <http://www.epa.nsw.gov.au/waste/dumping.htm>

**Is that fill legal?** <http://www.epa.nsw.gov.au/resources/012648web.epa%20fill.dl%20bro.pdf>

Standard Condition: E18

## E.14 Site Cranes

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

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

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

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

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

**Note:** Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the *principal contractor* or *owner builder* must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land & Environment Court Act 1979* as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.  
Standard Condition: E19

#### **E.15 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.16 Placement and use of Skip Bins

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

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

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

## E.17 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.18 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](http://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](http://www.workcover.nsw.gov.au) and [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au) . Other specific condition and advice may apply.

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

### **E.19 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](http://www.woollahra.nsw.gov.au)  
Standard Condition: E24

### **E.20 Replacement of Sandstone Kerb or Gutter**

Where existing sandstone kerb or gutter is to be replaced in concrete, the sandstone remains the property of Council. The stones are to be removed and handled in such a manner so as not to cause any damage to the sandstone.

The stones must be delivered on pallets between 7am to 4pm Monday to Friday by the *Principal Contractor or Owner* to:

Woollahra Council's Works Depot  
52-54 O'Dea Avenue  
Waterloo

Prior to delivery contact the Purchasing Officer, Mr Joe Cavagnino, on 9391 7973.  
Standard Condition: E25

### **E.21 Swimming and Spa Pools – Temporary Child Resistant Barriers and other matters**

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

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

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

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

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

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

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

### **F.2 Amenity Landscaping**

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

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

### **F.3 Commissioning and Certification of Systems and Works**

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

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

- a. Certification from the supervising professional engineer that the requirement of the Geotechnical / Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b. All flood protection measures.
- c. All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1 – “Off-Street car parking.”
- d. All stormwater drainage systems.
- e. All mechanical ventilation systems.
- f. All hydraulic systems.
- g. All structural work.
- h. All acoustic attenuation work.
- i. All waterproofing.
- j. 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

#### **F.4 Swimming and Spa Pools – Permanent Child Resistant Barriers and other matters**

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

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

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

- e. Water recirculation and filtration systems must be connected to the electricity supply by a timer that limits the systems operation such that it does not operate:
- f. before 8 am or after 8 pm on any Sunday or public holiday, or  
before 7 am or after 8 pm on any other day.

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

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

No relevant conditions.

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

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No. A11679

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

## H.2 Landscaping

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

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

## H.3 Removal of Ancillary Works and Structures

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

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

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

## H.4 Road Works (including footpaths)

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

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

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

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

### **I.1 Maintenance of BASIX commitments**

All BASIX commitments must be maintained in accordance with the BASIX Certificate No A11679

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

Standard Condition: I7

### **I.2 Maintenance of Landscaping**

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

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

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

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

Standard Condition: I8

### **I.3 Swimming and Spa Pools – Maintenance**

Swimming and Spa Pools must be maintained:

- a. in compliance with the *Swimming Pools Act* 1992 with regard to the provision of child-resistant barriers and resuscitation signs;
- b. in compliance with the NSW Health "Public Swimming Pool and Spa Pool Guidelines" in force at that time. Private pools are encouraged to comply with the same standards as applicable;
- c. in compliance with AS 1926.3-2003:Swimming pool safety - Water recirculation and filtration systems ;
- d. with backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e. with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
  - before 8 am or after 8 pm on any Sunday or public holiday, or
  - before 7 am or after 8 pm on any other day.

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

**Note:** The NSW Health Public Swimming Pool and Spa Pool Guidelines can be down loaded free from:

<http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>

Standard Condition: I13

## I.4 Outdoor lighting – Residential

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

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

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

## I.5 Noise from mechanical plant and equipment

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

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

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

## 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](http://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](http://www.dialbeforeyoudig.com.au).

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

Standard Advising: K2

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

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

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

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

- <http://www.hreoc.gov.au/index.html>
- [http://www.hreoc.gov.au/disability\\_rights/dda\\_guide/ins/ins.html](http://www.hreoc.gov.au/disability_rights/dda_guide/ins/ins.html)

If you have any further questions relating to the application of the DDA you can send and email to HEROC at [disabdis@humanrights.gov.au](mailto:disabdis@humanrights.gov.au).

Standard Advising: K3

## K.4 NSW Police Service and Road Closures

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

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

**Warning:** If you partially or fully close a road without compliance with Council and Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution.  
Standard Advising: K4

## **K.5 Builders Licences and Owner Builders Permits**

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

Further information can be obtained from the NSW Office of Fair Trading website about how you obtain an owner builders permit or find a principal contractor (builder):  
<http://www.dft.nsw.gov.au/building.html> .

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

Standard Condition: K5

## **K.6 Building Standards - Guide to Standards and Tolerances**

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

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

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

The Guide can be down loaded from:

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

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

Standard Condition: K6

## **K.7 Workcover requirements**

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

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

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

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

Standard Condition: K7

## **K.8 Asbestos Removal, Repair or Disturbance**

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

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

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

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

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

Standard Advising: K8

## **K.9 Lead Paint**

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

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

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

Standard Advising: K9

### **K.10 Dividing Fences**

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

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

Standard Advising: K10

### **K.11 Decommissioning of refrigeration or air conditioning equipment**

Decommissioning of any refrigeration or air conditioning equipment must be carried out by an authorised person *under the Ozone Protection Act 1989*, with any fluorocarbon refrigerant recovered in accordance with the requirements of the *Ozone Protection Regulation 1997*.

Standard Advising: K13

### **K.12 Appeal**

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

**Joseph La Posta, Senior Assessment Officer** on (02) 9391 7064

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.13 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.14 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.15 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](http://www.fairtrading.nsw.gov.au).

Standard Condition: K18

#### **K.16 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](http://www.woollahra.nsw.gov.au) or you may contact Council on 9391-7000 for further advice.

Standard Condition: K19

#### **K.17 Model**

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

Standard Condition: K21 (Autotext KK21)

Mr J La Posta  
**SENIOR ASSESSMENT OFFICER**

Mr N Economou  
**ACTING MANAGER**

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## **ANNEXURES**

1. Plans and elevation
2. Referral Response – Technical Services
3. Referral Response – Trees and Landscaping
4. Referral Response – Trees and Landscaping
5. Referral Response – Heritage