



Ordinary Council Meeting

Agenda: *Ordinary Council Meeting*

Date: *Monday 11 August 2008*

Time: *8.00pm*

Woollahra Municipal Council

Notice of Meeting

7 August 2008

To: His Worship The Mayor, Councillor Geoff Rundle
Councillors Anthony Boskovitz
John Comino
Claudia Cullen
Christopher Dawson
Marcus Ehrlich
Tanya Excell
Wilhelmina Gardner
Keri Huxley
Julian Martin
Andrew Petrie
Isabelle Shapiro
David Shoebridge
Fiona Sinclair King
John Walker

Dear Councillors

Council Meeting – 11 August 2008

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Ordinary Council Meeting** to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Monday 11 August 2008 at 8.00pm.**

Gary James
General Manager

Meeting Agenda

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	R1 7-9 Conway Avenue, Rose Bay – Demolition of two existing dwelling-houses & ancillary structures, consolidation of the (2) allotments & construction of new residential flat building containing (6) units incorporating a roof terrace & basement level parking for (15) vehicles, new swimming pool, landscaping & siteworks – 27/9/2007	8
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General Manager's Report

General Manager's No: 1

Subject: LOCAL GOVERNMENT ASSOCIATION OF NSW - 2008
ANNUAL CONFERENCE "INSPIRATION IN THE SILVER
CITY" BROKEN HILL - 25 TO 29 OCTOBER 2008

Author: Gary James, General Manager

File No: 53.G 2008

Reason for Report: For Council to review the Conference material and allow for the incoming Mayor to appoint delegates to attend the 2008 Local Government Association Conference.

Recommendation:

That the incoming Mayor call for Expressions of Interest from the newly elected Council, as soon as practicable after the Elections to attend the 2008 LG Association's Annual Conference.

The Local Government Association of NSW has forwarded details of the 2008 Annual Conference to be hosted by Broken Hill City Council from 25 to 29 October 2008 and entitled "Inspiration in the Silver City".

a. Nomination for the Executive

2008 is an election year for Office Bearers and Executive Members. The term of office is for two (2) years. Any Councillor may nominate for election; the proposers and seconders must be Councillors of Member Councils with full membership of the Association.

Council is awaiting information from the State Electoral Commission, who will be conducting the Executive Elections. Nominations to the Executive are open from 8 September to 17 October 2008.

Ballots for the positions of President, Vice-Presidents and Treasurer will be held on the Monday of the Conference with the ballot for the Executive Members being held on the Tuesday.

b. Nomination of Delegates and Observers

Councils are entitled to nominate voting delegates on a population basis. Woollahra Council is entitled to four (4) delegates. Delegates' voting cards will be distributed to delegates only at the Conference on registration. Delegates must be notified to the Local Government Association by Monday 13 October 2008.

Where it is necessary before or during the Conference to change registered delegates, all changes must be made in writing.

c. Draft Conference Program

Attached to this report for Councillors' information is a copy of the draft Conference Program for 2008 including guest speakers (Annexure 1).

d. Appointment of Delegates

Council is allowed four (4) voting delegates and it is proposed that the delegates be appointed by the Mayor, following a call of expressions of interest from the newly elected Councillors, after the September Election.

The appointment of delegates and attendance at the Conference must be in accordance with Council's resolution of 30 November 1992 which was in terms:

- B. THAT when more than four (4) Councillors wish to represent the Council at the Annual Local Government Association Conference the following will apply:*
- 1. In the selection of voting Councillors priority be given to Councillors who have not previously represented the Council in a voting capacity at the Annual Local Government Association Conference.*
 - 2. Councillors entitled to vote must adhere to and support Woollahra Municipal Council policies.*
 - 3. Councillors entitled to vote must attend all periods of the Conference except those taking part in elections.*
 - 4. Councillors attending as Observers or Alternate Delegates will be registered as Alternate Delegates.*

Gary James
General Manager

Annexures:

Annexure 1: Copy of draft 2008 Conference Program

9.1 Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Monday 4 August 2008 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **Parking Meters**
Author: Alan Opera – Manager Engineering Services
File No: 1038.G
Reason for Report: To report on parking meter operations and alternative payment methods, and to make recommendations for future upgrade and enhancement of Council's paid parking system.

Recommendation:

- A. That, in order to improve convenience and flexibility of payment for users, Council's paid parking system be upgraded to provide credit card payment facilities as a matter of priority, and options for other methods of payment be actively pursued and a further report provided.
 - B. That, to give effect to (A),
 - i. Tenders be called for the replacement of existing meters in Oxford Street, Paddington and Double Bay with Pay & Display on-street meters equipped with credit card reader facilities, and.
 - ii. Expressions of Interest be called for mobile phone based parking payment systems to supplement on-street meters, and that a further report be submitted on the proposals received.
 - C. That the purchase and installation of new meters be funded from the allocation for replacement of meters in the 2008/09 budget, supplemented by unallocated S94 reserve funds.
 - D. That Council maintain the current period restrictions in Double Bay and Paddington, and the parking fee rates as adopted in the 2008-09 Management Plan Fees and Charges.
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Item No: R2 Recommendation to Council
Subject: **790 New South Head Road, Rose Bay - Proposed Road Closure and Sale**
Author: Anthony Sheedy, Property Officer
File No: 329.790
Reason for Report: To give consideration to the closure and subsequent sale of unmade roadway adjoining the property.

Recommendation:

1. That Council proceed with the road closure, subject to a deposit of \$9500 being received by Council before the application to close the road is made. This amount is to be non-refundable except where the Minister's approval to the closure is not given.
 2. That subject to the portion of Road being closed, Council proceed with the sale of unmade roadway adjoining 790 New South Head Road, Rose Bay with the following conditions:
 - (a) A purchase price of \$2540 per square metre plus GST; purchase price to be subject to final survey.
 - (b) The balance of the purchase price is to be paid in full upon Gazettal of the road closure and completion of the sale.
 - (c) The owner of 790 New South Head Road, Rose Bay is to pay all costs, including but not limited to, GST, legal, survey etc associated with the closure and sale.
 3. That the Seal of Council be affixed to all necessary documentation to effect the Road closure and sale, i.e. Contract for Sale, Plan of Road Closure, Transfer documents etc.
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9.2 Development Control Committee

Items with Recommendations from the Committee Meeting of Monday 4 August 2008 Submitted to the Council for Determination

Item No:	R1 Recommendation to Council
Subject:	7-9 Conway Avenue, Rose Bay – Demolition of two existing dwelling-houses & ancillary structures, consolidation of the (2) allotments & construction of new residential flat building containing (6) units incorporating a roof terrace & basement level parking for (15) vehicles, new swimming pool, landscaping & siteworks – 27/9/2007
Author:	David Waghorn – Acting Team Leader
File No:	DA628/2007 –
Reason for Report:	As this matter was previously considered by Full Council and deferred the matter is referred back to Full Council for determination.

Recommendation:

THAT the Council, as the consent authority, refuse Development Application No. 628/2007 for the demolition of two existing dwelling-houses and ancillary structures, the consolidation of the two (2) allotments and the construction of a new residential flat building containing six (6) units incorporating a roof terrace and basement level parking for fifteen (15) vehicles, new swimming pool, landscaping and siteworks on land at 7-9 Conway Avenue, Rose Bay for the following reasons:

1. The development fails to comply with the provisions of Clause 25 (2) of WLEP 1995 in relation to stormwater disposal.
2. The development does not comply with Council's front setback control as prescribed under WRDCP 2003 and results in significant view loss from Nos 1-3 & 5 Conway Avenue, Rose Bay.
3. The development does not comply with Council's deep soil landscaped area at the frontage control as prescribed under WRDCP 2003 thereby reducing the future amenity of landscaping within the Municipality.
4. The development does not comply with Council's rear setback control as prescribed under WRDCP 2003 which results in excessive loss of vegetation and views.
5. The development does not comply with Council's number of storeys control as prescribed under WRDCP 2003 including by inappropriate excavation to the rear which together result in excessive loss of mature plantings and negative privacy, bulk and scale impacts.
6. The development does not comply with Council's articulated wall length (to the street) control as prescribed under WRDCP 2003.
7. That excavation down to 6 metres within 1.5metres from the side boundary is considered to be excessive and outside the proposed footprint.
8. Excessive roof terracing will have negative amenity impacts on adjoining properties.

Item No: R2 Recommendation to Council
Subject: 33 Coolong Road, Vaucluse – Proposed new skid & landing – 6/5/2008
Author: Caroline Owen – Assessment Officer
File No: DA253/2008
Reason for Report: In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to the Committee being divided between the Motion and the Amendment and the Committee resolved that both the Motion and the Amendment be submitted to Council for consideration.
(**Note:** Recommendation 2 appears on page 27 of the Agenda)

Recommendation 1:

THAT the Council, as the consent authority, is of the opinion that the objection under *State Environmental Planning Policy No. 1 – Development Standards* to Foreshore Building Lines – development standard under Clause 22 of the WLEP 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 works would be minor and would not have any negative impacts on the natural ecology or on adjoining properties.

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. 253/2008 is consistent with the aims of the Policy, grant development consent to DA No. 253/2008 for dwelling house on land at 33 Coolong Road Vaucluse, subject to the relevant standard conditions and the following special 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)
07/BM/01 & 07/BM/02 both revision 2	Architectural Plans	Waterlink Pty Ltd	30/11/07

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

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

A.4 Prescribed Conditions

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

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

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

B.1 Construction Certificate required prior to any demolition

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

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

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

C.1 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.2 Payment of Security, Levies and Fees (S80A(6) & S94 of the Act, Section 608 of the Local Government Act 1993)

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

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

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

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986			
Long Service Levy Use Calculator: http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm	Contact LSL Corporation or use their online calculator	No	
SECURITY under section 80A(6) of the Environmental Planning and Assessment Act 1979			
Property Damage Security Deposit - Making good any damage caused to any property of the <i>Council</i> as a consequence of the doing of anything to which the consent relates.	\$2,000.00	No	T115
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2005 This plan may be inspected at Woollahra Council or downloaded from our website www.woollahra.nsw.gov.au .			
Development Levy (S94A)	\$0	Yes, quarterly	T96
INSPECTION FEES under section 608 of the Local Government Act 1993			
Security Administration Fee	\$168	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$2,168.00 Plus any relevant indexed amounts and long service levy		

Building & Construction Industry Long Service Payment

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

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

How must the payments be made?

Payments must be made by:

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

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

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

How will the section 94A levy be indexed?

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

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

D.1 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.2 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.3 Erosion and Sediment Controls – Installation

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

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

Where there is any conflict The Blue Book takes precedence.

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

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

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

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”
Warning, irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

Standard Condition: D14

D.4 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)

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

- a. a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited Certifier, and
- b. the person having the benefit of the development consent has:
 - i. appointed a principal certifying authority for the building work, and
 - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- b1. the principal certifying authority has, no later than 2 days before the building work commences:
 - i. notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - ii. notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

- b2. the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
- i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - ii. notified the principal certifying authority of any such appointment, and
 - iii. unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - iv. given at least 2 days' notice to the council of the person's intention to commence the erection of the building.

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

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

Note: The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 82A(2) of the *Act* (including the need for a *Construction Certificate*) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

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

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

D.5 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 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.2 Support of adjoining land and buildings

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

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

Note: This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the *principal contractor* or *owner builder* must obtain:

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

Note: Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

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

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

Standard Condition: E13

E.3 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.4 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.5 Hours of Work –Amenity of the neighbourhood

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

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

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

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

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

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

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

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

E.6 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.7 Maintenance of Environmental Controls

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

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

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

E.8 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.9 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.10 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.11 Dust Mitigation

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

This generally requires:

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

- Note 1:** “*Dust Control - Do it right on site*” can be down loaded free of charge from Council’s web site www.woollahra.nsw.gov.au or obtained from Council’s office.
- Note 2:** Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.workcover.nsw.gov.au and www.epa.nsw.gov.au . Other specific condition and advice may apply.
- Note 3:** Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.
Standard Condition: E23

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

F.1 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

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 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

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

I.1 Storage

Nothing is to be stored above or below the proposed skid and deck.

J. Miscellaneous Conditions

No relevant conditions.

K. Advisings

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

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

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

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

Warnings as to potential maximum penalties

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

Warning as to enforcement and legal costs

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

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

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

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

Standard Advising: K1

K.2 Dial before you dig



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

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

Standard Advising: K2

K.3 Builders Licences and Owner Builders Permits

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

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

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

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

Standard Condition: K5

K.4 Building Standards - Guide to Standards and Tolerances

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

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

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

The Guide can be down loaded from:

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

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

Standard Condition: K6

K.5 Workcover requirements

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

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

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

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

Standard Condition: K7

K.6 Appeal

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

Caroline Owen, Assessment Officer on (02) 9391 7150

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.7 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.8 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.9 Owner Builders

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

Standard Condition: K18

K.10 Compliance with the Building Code of Australia

Preliminary assessment of the development application drawings indicates that the proposal may not comply with the following sections/parts of the *Building Code of Australia*:

Part 3.3.4 - Weatherproofing of masonry

Part 3.4.1 - Sub floor ventilation

Part 3.7 - Fire safety

Part 3.7.1 Fire separation

Part 3.7.2 Smoke alarms

Part 3.7.3 Heating appliances

Part 3.8 - Health and amenity

Part 3.8.1 Wet areas

Part 3.8.3 Facilities

Part 3.8.4 Light

Part 3.8.5 Ventilation

Part 3.8.6 Sound insulation

Part 3.9 - Safe movement and access

Part 3.9.1 Stair construction

Part 3.9.2 Balustrades

Part 3.9.3 Pool access

Note: There must be no removal of heritage building fabric unless expressly authorised under this consent where compliance with the BCA cannot be achieved without work not authorised under this consent application to amend this consent is required.
Standard Condition: K20 (Autotext KK20)

K.11 Construction Approval

You should also be aware that if the Consent Authority grants Development Consent for the proposal, works on the NSW Maritime's land must not commence unless:

- a) there is a land tenure agreement in place which is suitable to NSW Maritime; and
- b) (if proposal is below the MHW in Port Sydney) NSW Maritime has issued Construction Approval pursuant to clause 65A of the Management of Water and Waterside Lands Regulation – NSW.

Recommendation 2:

THAT the Council, refuse Development Application No. 253/2008 for dwelling house on land at 33 Coolong Road Vacluse for the following reasons:

- Unacceptable loss of natural rock form
 - Unacceptable impact on views from the harbour
 - Unacceptable overshadowing of natural rock form
 - Unacceptable waterscape impacts
-

9.4 Community & Environment Committee

Items with Recommendations from the Committee Meeting of Monday 28 July 2008 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: Community & Environmental Grants 2008 /2009
Author: Susan Turner / Jane Lewis
File No: 30.G, 1142.G / Education
Reason for Report: To give consideration to applications for Section 356 Community Grants /Community Environmental Grants from local community groups /services.

Note: In accordance with Council's Code of Meeting Practice the Committee Chair is not able to use a casting vote to determine the matter. As the voting was divided with 2 votes for the Motion and 2 votes for the Amendment, both the Motion and the Amendment are referred to Council for consideration.

Recommendation 1:

- A. That Council adopt the recommendation for the allocation of Community Grants for 2008/09 under Section 356 of the Local Government Act, and in accordance with Council's adopted policy objectives and selection criteria, except for Reportage
- B. That Council approve the selection panel's recommendations for successful 2008/09 Community Environmental Grants.
- C. That a function be organised to present and celebrate the awarding of the Community Grants and Community Environmental Grants to successful organisations.
- D. That an extensive review of the Community Grants Program be undertaken in accordance with the adopted Woollahra Social & Cultural Plan 2008 to 2013.
- E. That the \$4,000 originally allocated to Reportage be retained for any future grant applications in 2008/2009.

Recommendation 2:

- A. That Council adopt the recommendation for the allocation of Community Grants for 2008/09 under Section 356 of the Local Government Act, and in accordance with Council's adopted policy objectives and selection criteria.
 - B. That Council approve the selection panel's recommendations for successful 2008/09 Community Environmental Grants.
 - C. That a function be organised to present and celebrate the awarding of the Community Grants and Community Environmental Grants to successful organisations.
 - D. That an extensive review of the Community Grants Program be undertaken in accordance with the adopted Woollahra Social & Cultural Plan 2008 to 2013.
-

Notices of Motion

Item No: 1
From: Councillor Excell
Date: 24 July 2008
File No: 900.G

That council convene a meeting with all relevant authorities from Maroubra to Watsons Bay and from City of Sydney to Bondi to discuss a united effort and program for Fox eradication in the East.

Item No: 2
From: Councillors Huxley, Comino & Gardner
Date: 29 July 2008
File No: 900.G

That Council initiate discussions with Sydney Grammar School to examine options to address traffic congestion at Lawson/Alma Streets to include traffic wardens with a view to direct traffic at peak child collection times.

Item No: 3
From: Councillors Boskovitz & Comino
Date: 5 August 2008
File No: 900.G

That a report be brought to the appropriate committee addressing whether all decisions pertaining to bike routes and bike plans be included as a specific item on the Community and Environment Committee agenda.

Item No: 12
Subject: Questions Without Notice
Author: Gary James, General Manager
File No: 467.G/Q01
Reason for Report: To provide a response to Questions without Notice from Council Meeting of 28 July 2008 and for Councillors to ask Questions without Notice in accordance with Council's Code of Meeting Practice.

Recommendation:

That the responses to previous Questions without Notice be noted.

Background:

The provision for Councillors to ask Questions Without Notice is contained in Section 3 of Council's Code of Meeting Practice which states:

- (1) *As a standard practice, "Questions Without Notice" shall be listed in all agendas of Ordinary Meetings of Council*
- (2) *Questions shall be in writing.*
- (3) *The Mayor shall direct the question to the General Manager or responsible Division Head; or if the question is directed to another Councillor, the Councillor concerned. There shall be no requirement to answer the question immediately.*
- (4) *If the answer to a question can be given immediately then such shall be done and a record made in the Minutes of the Meeting. If an answer can be given, but not immediately, then the Mayor shall indicate to whom the question is to be directed and the basis upon which the answer is to be provided (whether in writing and direct to the Enquirer, or by means of a report to an appropriate Committee, or otherwise.)*
- (5) *In the spirit of achieving the expeditious discharge of Council business the agenda item "Questions Without Notice" shall generally be limited to not more than 30 minutes duration unless the Council determines otherwise, on the evening in question and by way of specific resolution.*

Questions Without Notice should be asked in accordance with the Code of Meeting Practice.

Responses to Councillors Questions Without Notice on 28 July 2008 are as follows:

Councillor Boskovitz asking:

I recently observed while I was admiring a number of spots along the harbour foreshore that it was exceptionally unkept and dirty.

Could you please ensure that the harbour foreshore in Rose Bay is clean and tidy and that any stormwater filters in place are regularly cleaned out whether it be by Council or by Maritime?

Manager Civil Works and Infrastructure in response:

We regularly clean out stormwater lines and filters that we own. Private properties who have stormwater lines are required to maintain their own outlets. I have raised a CRM 10096177/2008 for our Assets Inspections Officer to inspect Council's outlets in Rose Bay and arrange for cleaning as is required.

Councillor Comino asking:

What is the status of Council's investigations into the development application for the Prestige Smash Repairs site in Cascade Street, Paddington?

Team Leader Development Control in response:

Lodgement of DA; · Date lodged: 12/12/2007; Additional Information Requested; · Request for additional information letter sent on 24/1/2008 with regard to:

1. existing use rights;
2. proposed strata subdivision;
3. Integrated Development re-notification and re-advertising (SEPP 55);
4. shadow diagrams;

Existing use rights;

Letter from Pike Pike & Fenwick Lawyers dated 19/3/2008 was received in addressing the existing use right.

Council's lawyer, Lindsay Taylor Lawyers was briefed, via Council's letter dated 31/3/2008, on this matter and legal advice was sought with regard to the existing use right.

Lindsay Taylor Lawyers, via his letter dated 21/5/2008 requested Pike Pike & Fenwick Lawyers to provide documentary evidence to support the claims that the property has been continually used for the purposes of automotive repairs, panel beating and spray painting, and has not been used solely for the warehousing of vehicles since BMW took possession of the property in 2005.

Pike Pike & Fenwick Lawyers replied to Lindsay Taylor Lawyers via a letter dated 7/7/2008 which also attached a series of photographs dated 4/6/2008 showing the use of the subject property for the purpose of automotive repair including panel beating and spray painting (alleged Existing Use).

Council is of the view that the photographs only establish that the subject property was used for the alleged Existing Use on 4/6/2008, and do not assist in establishing whether the subject property has been used for the alleged Existing Use continually since 2005.

Lindsay Taylor Lawyers then sent a letter to Pike Pike & Fenwick Lawyers on 25/7/2008 request further evidence to satisfy that the alleged Existing Use has not been abandoned since 2005. The required evidence should consist of, but not limited to, the following:

1. Copies of invoices of work done;
2. Receipts for payment for work done; and;
3. Receipt for supplies;

No further response has been received as at 6/8/2008.

Engineering Issues:

Council Development Engineer considered the DA unsatisfactory in terms of parking, drainage and flooding & overland flow issues. Detailed comments were forwarded to the applicant by email on 29/2/2008 and 8/5/2008.

Revised stormwater plans (Amended Stormwater disposal concept plan prepared by Harris Page & Assoc Dwg No SW-00 to 07 Revision C dated 020408) was received on 7/4/2008.

Council's Development Engineer considered the DA still unsatisfactory for the following reasons:

1. Lack of OSD;
2. Inadequate documentation provided for the impacts of overland flow;
3. Amendments to the access and parking arrangement is required;

Applicant was advised of the above comments via letter dated 9/5/2008.

Revised architectural drawing (GSA Dwg No. 2001 & 2002, Issue F) and traffic report by Transport Traffic & Planning Associates (letter dated 12/5/2008) in response to traffic issue was received on 19/5/2008. Further revised stormwater plans were also received on 28/5/2008.

Council's Development Engineer indicated that the flooding and parking/access issues have not been properly resolved. Detailed comments were forward to the applicant on 4/7/2008.

No further response has been received as at 6/8/2008.

Contamination Issues

Stage 2 Detailed Environmental Site Assessment was received on 10/4/2008.

It has been considered satisfactory by Council's Environmental Health Officer (Referral Response dated 23/4/2008) subject to conditions requiring submission of Remedial Action Plan.

Councillor Comino asking:

Has Council received any notification as to the Department of Planning steps regarding calls for nominations and expressions of interest for the Planning Assessment Commission, Building Professionals Board, Joint Review Planning Panels and other initiatives under the new planning laws?

Director Planning and Development in response:

Council has not received any formal notification regarding calls for nominations and expressions of interest for the Planning Assessment Commission, Building Professionals Board, Joint Regional Planning Panels and other initiatives under the new planning laws. However, the Department of Planning has recently placed advertisements seeking expressions of interest and nominations for the NSW Planning Assessment Commission and for the NSW Building Professionals Board. The closing date for submissions is 8 August 2008.

Councillor Comino asking:

Are you aware that a recently installed 50 KMH speed sign on New South Head Road, Vaucluse (near Graylind Place) is almost totally obscured by another sign reading "Changed Traffic Conditions Ahead."

If this is an RTA issue/responsibility, would you please draw this problem to their attention for rectification?

If it is Council's responsibility, would you please action rectification through the Traffic Engineering Division?

Manager Engineering Services in response:

The following email was sent to RTA on 30/7/08."Council has advised that there is a 50kph speed limit sign on the western side of New South Head Road, opposite the driveway to No.37 New South Head Road in the vicinity of Ray Avenue which is obscured by a "Changed Traffic Conditions Ahead" sign. I have inspected it and can confirm that there is an obstruction in sight lines at this location. Could you please ask your Works Depot to make arrangements to rectify this situation?"

Councillor Comino asking:

Arising from last weeks Transport Forum, can Council convey through the appropriate channels to the Ministry of Transport (who did not attend), and the Premier, the need to co-ordinate ferry, bus and rail timetables for peak hour commuters and again investigate the introduction of multi-modal ticketing?

Director Community Services in response:

A letter to the Minister of Transport and the Premier will be drafted for the Mayors signature.

Councillor Gardner asking:

The western side of Hopetoun Avenue presents a very wide sloping nature strip, which are mostly grassed. However, on some sections are a variety of overgrown shrubs and vegetation, some extending over the footpath.

This exuberant growth severely diminishes the striking open character of the streetscape and places pedestrians at risk. Could Council please remove the unweilding growth?

Manager Parks and Street Trees in response

I have asked the Park staff to inspect the footpaths in Hopetoun Avenue and remove any vegetation which may be restricting pedestrian access. More substantial encroachments on to publicly owned verges may be dealt with on a case by case basis using Woollahra's Policy for Managing Encroachments on Road Reserves.

Councillor Gardner asking:

Last Friday I tried to feed a parking meter along Guilfoyle Park. It had been raining and large deep puddles had formed at the base of most meters. It was almost impossible to insert my money and press the various buttons without stepping in the ponds. Could Council please correct this problem, so that shoes won't be damaged by the water in the puddles?

Manager Civil Works and Infrastructure in response:

I have arranged (CRM 10096175/2008) to inspect the areas around the base of the parking meters installed in Guilfoyle Park, and for any subsided areas to be regraded and returfed as required.

Councillor Huxley asking:

Would you please report to this Council on what discussions took place between the representatives of the Paddington Bowling Club and yourself?

Mayor in response:

I was meant to have a meeting with them on Friday. They cancelled the meeting. I was meant to have a meeting this afternoon and they cancelled that meeting. I understand I may be having one if I am available on Friday week.

Councillor Huxley asking:

Could I ask please that you report to this Council on any discussions that take place on what if any action may be taken in light of the report from the recent inquiry?

Mayor in response:

I am not sure if I can report on that but I will report on what discussions I had with the representatives.

Councillor Huxley asking:

On site inspection last week there is a site that had building materials washed all over the rear lane between Cambridge Street and to the west towards Glenmore Road. Would you please raise that and have staff investigate that?

Manager Compliance in response:

This matter has been recorded in Council's Customer Request Management system (reference no. CRM 10096107/2008) and referred to Council's Rangers for investigation and action.

Councillor Huxley asking:

When will Council footpaths dug up by Energy Australia in Cross Street be reinstated with paving?

Director Technical Services in response:

The work in Bay Street is to start this week, Transvaal Avenue will be the next and then Cross Street. The designs for Cross Street are being completed at the moment. I have requested that we go through all of the restorations and check them for maintenance in the mean time.

Manager Civil Works and Infrastructure further in response:

We have raised CRM 10096174/2008 for all restorations throughout the Double Bay Business centre to be inspected and repairs made where required, pending restoration contracts commencing in the near future..

Councillor Sinclair King asking:

When will the assessment of the Double Bay Marina be brought to Council?

Director Planning and Development in response:

We are currently planning probably for the second DCC meeting in August but that is dependent on our ability to complete the assessment report which I can say is almost but not complete at this point in time. It has been complicated by the fact that the applicant has lodged an appeal to the Land and Environment Court and we have had to divert significant resources to the statement of basic facts and contentions and replies to the applicant in relation to those matters. I am expecting the second DCC in August.

Councillor Sinclair King asking:

Could Director Hatton please consider the commencement of Council garbage collections around a more civilised hour like 7.00am.

Director Technical Services in response:

That letter, the one I assume you are referring to, appears to relate to commercial collections not Council collections but I am having it investigated. We don't carry out garbage collections every day of the week and we don't start at 4.30 in the morning.

Manager Depot and Waste Services further in response:

Council's domestic waste service in the Paddington area is carried out on a Monday only and begins at 5.15am, with the outer main roads collected first before moving into the smaller inner roads. There are numerous businesses in the area that are serviced by both Councils Trade waste collection service and other private contractors. Councils Trade Waste service does not begin until 5.15am. The locations vary from day to day, but can result in truck movements in certain areas on most mornings.

Gary James
General Manager

Annexures:

Nil