

# Council Meeting

Monday 28 May 2007

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## Items Determined Under Delegated Authority by Council Committees

The following Items were determined under Delegated Authority. To see the delegated decisions of Council please refer to the individual Committee Meeting Minutes.

### Corporate & Works Committee Meeting held on Monday 21 May 2007

- D1 Confirmation of Minutes of Meeting held on 7 May 2007
- D2 Monthly Financial Report - April 2007
- D3 Council's Workforce
- D4 Organisation Support Principal Activity - 3rd Quarter Management Plan Review
- D5 Customer Service and Communication Principal Activity - 3rd Quarter Management Plan Review
- D6 Roads, Traffic and Transport Principal Activity - 3rd Quarter Management Plan Review
- D7 Environmental and Infrastructure Works Program Principal Activity - 3rd Quarter Management Plan Review

### Development Control Committee Meeting held on Monday 21 May 2007

- D1 Confirmation of Minutes of Meeting held on 7 May 2007
- D2 DA86/2007 – 83B Drumalbyn Road, Bellevue Hill – New lift passage & lift – 15/2/2007
- D3 DA554/2006 – 599-601 New South Head Road & 1 Cranbrook Road, Rose Bay – Demolition of two existing hotel buildings at 599-601 New South Head Road & the dwelling-house at 1 Cranbrook Road & erection of a part 2 & part 4 storey residential care facility consisting of 71 bedrooms (80 beds) – 30/8/2006
- D4 DA750/2005 – 779 New South Head Road, Rose Bay – Section 82A Review refusal of Development Application – 8/11/2006 (**See Item R1**)
- D5 DA302/2006 - 30 Alma Street, Paddington (aka White City) – New playing field for Sydney Grammar School with associated car parking & landscaping & land remediation – 26/5/2006 (**See Item R2**)
- D6 DA632/2006 – Section of New South Head Road footpath adjacent to 624-634 New South Head Road, Rose Bay – Footway restaurant consisting of ten (10) tables & twenty (20) chairs – 25/9/2006
- D7 DA573/2006 – 42-42A Wolseley Road, Point Piper – Demolition of existing dwelling-house & residential apartment building & construction of a residential flat building comprising 5 units, 11 off-street car parking spaces, landscaping & siteworks – 6/9/2006 (**See Item R3**)
- D8 Register of Current Land and Environment Court Appeals for Building and Development Applications
- D9 DA423/2005 – 1-3 Prospect Street, Paddington – Section 82A Review of refusal – 17/11/2006 (**See Item R4**)
- D10 DA771/2004 Part 4 - 26 Latimer Road, Bellevue Hill – Review of Prospects Advice

### Urban Planning Committee Meeting held on Monday 14 May 2007

- D1 Confirmation of Minutes of Meeting held on 30 April 2007

### Community & Environment Committee Meeting held on Monday 14 May 2007

- D1 Confirmation of Minutes of Meeting held on 30 April 2007
- D2 Woollahra Traffic Committee Minutes - 1 May 2007
- D3 Extraordinary Meeting Woollahra Traffic Committee Minutes - 7 May 2007
- D4 Cigarette Butt Disposal
- D5 Community Safety Committee Minutes, Incorporating Minutes from the Alcohol Free Zone Working Party
- D6 Christison Park Water Saving Project



# Council Meeting

**Minutes of the Meeting of Woollahra Municipal Council  
held at the Council Chambers, Double Bay, on  
Monday 28 May 2007 at 8.00pm.**

Present: Her Worship the Mayor, Councillor Keri Huxley  
Councillors Anthony Boskovitz  
John Comino  
Claudia Cullen  
Christopher Dawson  
Tanya Excell  
Wilhelmina Gardner  
Julian Martin  
Andrew Petrie (left 10.25pm after DCC item R4)  
Isabelle Shapiro  
David Shoebridge  
Fiona Sinclair King  
John Walker

Staff: A Coker (Director – Planning & Development)  
W Hatton (Director – Technical Services)  
G James (General Manager)  
L Windle (Manager – Governance)

Also in Attendance: Nil

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## Confirmation of Minutes

(Martin/Shapiro)

- 1/9 THAT the Minutes of the Council Meeting held on 14 May 2007 be taken as read and confirmed.

**Adopted**

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## Leave of Absence

(Petrie/Comino)

- 2/9 That leave of absence for all meetings of the Council and its Committees be granted to Councillor John Walker for the period 2 June 2007 to 15 June 2007, inclusive.

**Adopted**

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## Apologies

(Petrie/Comino)

- 3/9 Apologies were received and accepted from Councillors Martin Ehrlich and Geoff Rundle and Leave of Absence granted.

**Adopted**

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## Declarations of Interest

Councillor Comino declared a conflict of interest in DCC Item R1 (779 New South Head Road, Rose Bay) as it involves an applicant who was a client of his partner and excused himself from the Council Chamber when the item was heard and did not participate in the debate or vote on the matter.

Councillor Comino advised that he does not have a conflict on interest in DCC Item R2 (30 Alma Street, Paddington) as it does not affect any part of the area north of the viaduct.

Councillor Gardner declared a non pecuniary conflict of interest in DCC Item R2 (30 Alma Street, Paddington) as she is a member of the White City Tennis Club.

Councillor Martin declared a non pecuniary conflict of interest in DCC Item R2 (30 Alma Street, Paddington) as he has a son attending Sydney Grammar School and is a member of the White City Tennis Club.

Councillor Walker declared a non pecuniary conflict of interest in the Mayoral Minute (Donation to Centennial Parklands Foundation Tree Transplant Appeal) as he is the Deputy Chair of the Centennial Parklands and Chair of the Finance Committee of the Centennial Parklands.

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## Mayoral Minute

**Mayoral Minute No:** 1

**Subject:** **Donation To Centennial Parklands Foundation Tree Transplant Appeal**

**Author:** Cr Keri Huxley, Mayor

**File No:** 176.G

**Reason for Report:** For Council to discuss the request for a donation.

**Note:** Councillor Walker declared a non pecuniary conflict of interest in this item as he is the Deputy Chair of the Centennial Parklands and Chair of the Finance Committee of the Centennial Parklands..

**Motion moved by Councillor Walker  
Seconded by Councillor Petrie**

That the Mayoral Minute be adopted.

**Amendment moved by Councillor Sinclair King**

That Council spend \$5,000 on planting a tree or trees within the Woollahra Municipality with an accompanying plaque.

**The Mayor did not accept the Amendment.  
The Mayoral Minute as Adopted.**

**Resolved:**

**4/9** That Council donate \$5000 to the Centennial Parklands Foundation Tree Transplant Appeal.

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### Background:

The Centennial Parkland Foundation is an independent charitable organisation which has the aim of ensuring that the natural environment provided by Centennial Parklands continues to be enjoyed by future generations (see Annexure 1). The foundation is listed on the Register of Environmental Organisations with the Commonwealth Department of Environment and Heritage.

#### Mission

To foster community commitment to Centennial Parklands through fundraising and to give people the opportunity to directly contribute to the future of the Parklands.

#### Foundation Objectives

- To preserve the natural environmental value of the Centennial Parklands
- To encourage and promote enjoyment of recreation and activity within natural surroundings

- To recognise and appreciate the natural and historical significance of Centennial Parklands
- To enhance and promote all other aspects of the environment benefits provided by Centennial Parklands to be enjoyed by all members of the public
- To provide information, education and research about the natural environment

#### Current Projects

Ibis management

Water savings

Ponds

Eastern Suburbs Banksia Scrub

The Foundation was established in 2005 and a fulltime Executive Officer is employed.

#### **The Tree Transplant Appeal:**

Centennial Parklands Foundation is approaching a number of its corporate and government neighbours to participate in its Tree Transplant Appeal, by donating \$5,000 for the purchase and establishment of a significant tree planted in a high profile position with a commemorative plaque, with the remainder of the funds to be used by the Trust for ongoing running costs.

The tree replacement program of the Parklands which encompasses Moore Park, Queens Park and Centennial Park requires 160 new trees to be planted each year. The transplant campaign is to raise funds for future purchase of trees and the maintenance of the new plantings.

This campaign has been extremely successful to date, raising almost \$100,000 and funding around 80 trees. The opportunity to demonstrate good corporate and community citizenship through the tree transplant project has already been taken up by a number of neighbouring Councils and local residents. Seven of the eight major donors to date are from the Woollahra Local Government area; 62% of all donations received this financial year have come from Woollahra, and the main contributions are from the Paddington 2021 postcode.

#### **Proposal:**

The Foundation has written to Woollahra Council (Annexure 2) seeking a donation. The tree and position being offered to Woollahra Municipal Council is a Port Jackson Fig, *Ficus rubiginosa*, in a prominent position at the start of the avenue planting inside the Paddington Gate entrance to Centennial Park (see image Annexure 3). A donation by Woollahra Council to the Foundation to dedicate a tree this year will also enable advance commitments to be made to nurseries and suppliers for trees to be grown and delivered in future years.

I recommend that Woollahra Council participate in this program to maintain and enhance the Centennial Parklands.



Cr Keri Huxley  
Mayor

Annexures:

- Annexure 1: Background information on Centennial Parkland Foundation
- Annexure 2: Letter dated 31 January 2007 from the Foundation
- Annexure 3: Image of Port Jackson Fig, *Ficus rubiginosa*

## Corporate & Works Committee

### Items with Recommendations from the Committee Meeting of Monday 21 May 2007 Submitted to the Council for Determination

**Item No:** R1 Recommendation to Council  
**Subject:** **Adoption of Commercial Fitness Training Fee**  
**Author:** David Sheils - Manager Public Open Space  
**File No:** 172.G  
**Reason for Report:** To adopt the Commercial Fitness Training Application fee

**Motion moved by Councillor Petrie**  
**Seconded by Councillor Walker**

That Council not charge an application fee.

**Amendment moved by Councillor Martin**  
**Seconded by Councillor Shoebridge**

That an application fee of \$200 for a 2 year period be adopted for the use of public open space for conducting commercial fitness training activities, in accordance with the Commercial Fitness Training Policy (2007).

**The Amendment was put and carried.**  
**The Amendment became the Motion.**  
**The Motion was adopted.**

**Resolved:**

**5/9** That an application fee of \$200 for a 2 year period be adopted for the use of public open space for conducting commercial fitness training activities, in accordance with the Commercial Fitness Training Policy (2007).

**Note;** A Division was called by Councillors Petrie and Walker

**For the Motion**

Councillor Gardner  
 Councillor Martin  
 Councillor Excell  
 Councillor Dawson  
 Councillor Shapiro  
 Councillor Sinclair King  
 Councillor Boskovitz  
 Councillor Cullen  
 Councillor Shoebridge  
 Councillor Huxley

**10/3**

**Against the Motion**

Councillor Comino  
 Councillor Petrie  
 Councillor Walker

**Item No:** R2 Recommendation to Council  
**Subject:** **Goods and Services Tax Compliance Certification**  
**Author:** Michelle Phair, Acting Finance Manager  
**File No:** 329G  
**Reason for Report:** To seek a recommendation to Council in regard to Goods and Services Tax compliance certification.

**(Martin/Sinclair King)**

**Resolved without debate:**

**6/9** THAT Council, having noted this report and the statement by the Responsible Accounting Officer, make the following resolution in regard to goods and services tax:

To assist compliance with Section 114 of the Commonwealth Constitution, we certify that:

- Voluntary GST has been paid by Woollahra Municipal Council for the period 1 May 2006 to 30 April 2007.
- Adequate management arrangements and internal controls were in place to enable Council to adequately account for its GST liabilities and recoup all GST input tax credits eligible to be claimed.
- No GST non-compliance events by the Council were identified by or raised with the Australian Taxation Office.

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**Item No:** R3 Recommendation to Council  
**Subject:** **26-28 Royston Street, Paddington - Proposed Road Closure and Sale**  
**Author:** Anthony Sheedy, Property Officer  
**File No:** 395.26-28  
**Reason for Report:** To give consideration to the closure and subsequent sale of unmade roadway in Sutherland Ave, adjoining the property of 26-28 Royston St, Paddington.

**(Martin/Sinclair King)**

**7/9** **Resolved without debate:**

- A. That Council proceed with the road closure application, subject to receiving a 10% deposit of the Sale price before the application to close the road is made. This amount is to be non-refundable unless the Minister's approval to the closure is not given.
- B. That subject to the portion of road being closed, Council proceed with the sale of stratum unmade roadway adjoining 26-28 Royston St, Paddington, with the following conditions:

1. That the stratum land to be sold is to be limited in height to the first floor sill height, as defined in Council resolutions of 11 December 2006 and 5 February 2007, but unlimited in depth.
  2. A purchase price of \$850 per square metre (exclusive of GST) is to be paid to Council subject to final survey.
  3. The balance of the purchase price is to be paid in full upon completion of the Sale.
  4. The owner of 26-28 Royston St, Paddington is to pay all costs, including but not limited to GST, legal fees, survey etc associated with the closure and Sale.
- C. That the Seal of Council is to be affixed to all necessary documentation to effect the road closure and sale i.e. Contract for Sale of Land, Plan of Road Closure, Transfer documents etc.
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## Development Control Committee

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### Items with Recommendations from the Committee Meeting of Monday 21 May 2007 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council

**Subject:** **779 New South Head Road, Rose Bay – Section 82A Review refusal of Development Application – 8/11/2006**

**Author:** Lewis Adey – Assessment Officer

**File No:** DA750/2005

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

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

Note: Late correspondence was tabled at the meeting from Anthony Sahade.

**Motion moved by Councillor Excell  
Seconded by Councillor Shapiro**

- A. THAT Council, as the consent authority, having considered the application for review of its determination, resolve to refuse to grant development consent to Development Application No. 750/2005 for advertising structure/advertisement on land at 759-779 New South Head Road Rose Bay because Council cannot lawfully grant retrospective development consent.
- B. That Council require the removal of the sign on the former Westpac Bank building, Rose Bay.

**Amendment moved by Councillor Petrie  
Seconded by Councillor Boskovitz**

That the recommendation from the Development Control Committee be adopted.

**Foreshadowed amendment advised by Councillor Sinclair King**

- A. THAT Council, as the consent authority, having considered the application for review of its determination, resolve to refuse to grant development consent to Development Application No. 750/2005 for advertising structure/advertisement on land at 759-779 New South Head Road Rose Bay because Council cannot lawfully grant retrospective development consent.

- B. That Council resolve to take action seeking the removal of the additional signs on the subject site as identified in the report to the Development Control Committee and that the signs be removed within 28 days.

**Additional foreshadowed amendment advised by Councillor Martin**

- A. THAT Council, as the consent authority, having considered the application for review of its determination, resolve to refuse to grant development consent to Development Application No. 750/2005 for advertising structure/advertisement on land at 759-779 New South Head Road Rose Bay because Council cannot lawfully grant retrospective development consent.
- A. THAT a report be brought back to review the sign policy in Rose Bay and how we can change the instruments or the enforcement of the policy.

**The Amendment moved by Councillor Petrie and Seconded by Councillor Boskovitz was put and lost.**

**Amendment moved by Councillor Sinclair King  
Seconded by Councillor Dawson**

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

**At this stage, the time being 9.08pm, The Mayor adjourned the Meeting.**

**The Meeting reconvened at 9.15pm with the following Councillors present:**

**The Mayor, Councillor Huxley and Councillors Boskovitz, Comino, Cullen, Dawson, Excell, Gardner, Martin, Petrie, Shapiro, Shoebridge, Sinclair King and Walker.**

**Motion moved by Councillor Excell  
Seconded by Councillor Shoebridge**

- 8/9 That the Motion be put.

**Adopted**

**The Amendment moved by Councillor Sinclair King and Seconded by Councillor Dawson was put and carried.**

**The Amendment became the Motion.**

**No further amendments were moved.**

**The Motion was adopted.**

**9/9 Resolved:**

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

**Note:** A Division was called by Councillors Petrie and Walker

**For the Motion**

Councillor Gardner  
Councillor Martin  
Councillor Dawson  
Councillor Sinclair King  
Councillor Shapiro  
Councillor Cullen  
Councillor Shoebridge  
Councillor Huxley

**Against the Motion**

Councillor Petrie  
Councillor Excell  
Councillor Walker  
Councillor Boskovitz

**8/4**

**Note:** Prior to the conclusion of the meeting a Notice of Motion of Rescission signed by Councillors Petrie, Boskovitz and Walker was received by the Mayor for this item.

- Item No:** R2 Recommendation to Council
- Subject:** **30 Alma Street, Paddington (aka White City) – New playing field for Sydney Grammar School with associated car parking & Landscaping & Land remediation – 26/5/2006**
- Author:** Thomass Wong – Senior Assessment Officer
- File No:** DA302/2006
- Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to the matter being called by Councillor Gardner for the following reasons:
1. The proposed change of use of the White City Tennis Land by the demolition of eight (8) lawn tennis courts and five (5) hard courts and the replacement with a soccer/cricket field is of considerable importance to the community and should be debated by all Councillors.
  2. Particular attention should be paid to the Draft DCP, which is now on exhibition, in relation to the propose elimination of the heritage significant lawn courts, the traffic implications due to intensification of use, public access to the northern side of the channel, and contamination issues of the site.
- Note:** Councillor Comino advised that he does not have a conflict on interest in the item as it does not affect any part of the area north of the viaduct.
- Note:** Councillor Gardner declared a non pecuniary conflict of interest in this item as she is a member of the White City Tennis Club.
- Note:** Councillor Martin declared a non pecuniary conflict of interest in this item as he has a son attending Sydney Grammar School and is a member of the White City Tennis Club.
- Note:** Late correspondence was tabled at the meeting from Michael Rolfe.

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

That the staff recommendation for approval of the application submitted to the Development Control Committee Meeting on 21 May 2007 be adopted.

**Amendment moved by Councillor Gardner  
Seconded by Councillor Shoebridge**

That determination of the application be deferred and referred back to the Development Control Committee for further consideration of the following matters:

1. non compliances with the Draft White City DCP in relation to heritage matters,
2. insufficient information provided in relation to the remediation of the site,
3. insufficient monitoring of acid sulphate soils,
4. inadequate parking provisions.

**The Amendment was put and lost.**

**Amendment moved by Councillor Gardner**

That the recommendation be adopted subject to the inclusion of an additional condition to the following effect:

- as there is a requirement that testing has to be done every 500 cubic meters with respect to contamination by hydrocarbons, heavy metals and asbestos that at the same time tests also be done of the ph of the soil.

**The Amendment lapsed for the want of a seconder.**

**The Motion moved by Councillor Boskovitz and Seconded by Councillor Petrie was put and adopted.**

**10/9 Resolved: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979**

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

**1. Approved Plans and supporting documents**

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

Reference	Description	Author/Drawn	Date(s)
DA1200 (Rev C)	Sport Pitches – White City: Plan	Gardner Wetherill Associates	11/4/2006
DA1201 (Rev B)	Plan – Roadway	Gardner Wetherill Associates	3/4/2007
DA1600 (Rev C)	Sport Pitches – White City: Site Sections	Gardner Wetherill Associates	11/4/2006
Plan SRA.1	Indicative Layout of Occasional Overspill Parking on SGS’ Leased SRA Land Beneath Railway Viaduct, Rushcutters Bay	Unknown	7/3/2007
LCP.01/A	Landscape Plan	Narelle Sonter Botanica	18/4/2006
E20384F-RAP2	Revised Remedial Action Plan	Environmental Investigation Services	Sept 2006
Not available	Flood Impacts Assessment	Lyall & Associates Consulting Water Engineers	March 2006
Job No. 0502-0052 Dwg C02 (Iss E)	Sediment & Erosion Control Plan	LHO Group	March 2006
Job No. 0502-0052 Dwgs C00 & C01 (Iss E)	Stormwater disposal concept plan	LHO Group	March 2006
Not available	Sydney Grammar School Playing Field Development at White City – Riparian Vegetation Rehabilitation	---	21 Sept 2006

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

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

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

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

### a. Pedestrian Access

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

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

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

### c. Landscape

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

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

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

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

## 3. Compliance with the Remedial Action Plan

1. The site is to be remediated and validated in accordance with the report prepared by Environmental Investigation Services dated September 2006 Report No: E20384F-RAP2. Prior to the execution of works associated with the built form of the development (excluding building work directly related to remediation). A Site Audit Statement is to be submitted to Council clearly indicating that the site is suitable for the proposed use. Conditions on the Site Audit Statement shall form part of the consent.
2. Any variations to the proposed Remediation Action Plan shall be approved in writing by the Accredited Site Auditor and Council prior to the commencement of such work.

3. Prior to the exportation of waste (including fill or soil) from the site the material should be classified in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW EPA Environmental Guidelines Assessment, Classification and Management of Liquid & Non Liquid Wastes 1998. The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporter if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or group (A) liquid waste advice should be sought from the EPA.

#### **4. Notice of completion of category 1 remediation work**

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

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

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

Standard Condition: D3

#### **5. Walker Avenue Gate**

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

#### **6. Department of Nature Resources – General Terms of Approval**

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

#### **7. Department of Nature Resources – General Terms of Approval**

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

#### **8. Department of Nature Resources – General Terms of Approval**

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

#### **9. Department of Nature Resources – General Terms of Approval**

Erosion and sediment control measures are to be implemented prior to any works commencing at the site and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering the watercourse/foreshore environment.

These control measures are to be in accordance with the requirements of Council, or the determining authority, and best to follow management practices as outlined in the Landcom manual "*Managing Urban Stormwater: Soils and Construction – Volume 1*" (4<sup>th</sup> Ed., 2004) - the "*Blue Book*".

**10. Department of Nature Resources – General Terms of Approval**

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

**11. Department of Nature Resources – General Terms of Approval**

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

**12. Department of Nature Resources – General Terms of Approval**

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

**13. Department of Nature Resources – General Terms of Approval**

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

**14. Department of Nature Resources – General Terms of Approval**

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

**15. Department of Nature Resources – General Terms of Approval**

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

**16. Department of Nature Resources – General Terms of Approval**

Site riparian rehabilitation must:

- a. protect any remnant local native riparian vegetation at the Site wherever it is reasonably possible to do so, and

- b. *be consistent with :Sydney Grammar School Playing Field Development at White City: Riparian Vegetation Rehabilitation Plan, dated 21 September 2006 and the associated referenced locations in the Plan titled Sports Pitches – White City Project no.05039, Drawing No. DA 1200, Revision C and Sydney Grammar School Playing Field Development, White City Rose Bay: Vegetation Management Plan Principles, dated 30 October 2006.*

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

**17. Department of Nature Resources – General Terms of Approval**

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

**18. Department of Nature Resources – General Terms of Approval**

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

**19. Department of Nature Resources – General Terms of Approval**

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

**20. Part 3A Permit requirement for the Construction Certificate**

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

**21. Condition imposed by RailCorp**

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

**22. Section 73 Compliance Certificate – Sydney Water Requirements**

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

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

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

### 23. Existing trees which must be retained

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

#### Trees on Private Property

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

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

### 24. Trees which may be removed

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

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

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

### 25. Replacement trees which must be planted

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

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

## 26. Tree Protection Zones

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

- a. Tree Protection Zones are to be fenced with a 1.8 meter high chainmesh or weldmesh fence to minimise disturbance to existing ground conditions.
- b. Installation of all Tree Protection measures is to be at the direction of and overseen by a qualified Arborist (minimum Australian Qualification Framework Level 4 or recognised equivalent).
- c. A sign must be erected on each side of the fence indicating the existence of a Tree Protection Zone and providing the contact details of the site Arborist.
- d. Existing soil levels must be maintained within Tree Protection Zones. Where excavation is undertaken adjacent such an area, the edge of the excavation must be stabilised, until such time as permanent measures are installed (eg. retaining wall etc) to prevent erosion within the Tree Protection Zone.
- e. Sediment control measures are to be installed around all Tree Protection Zones to protect the existing soil levels.
- f. The storage of materials, stockpiling, sitting of works sheds, preparation of mixes, cleaning of tools or equipment is not permitted within Tree Protection Zones.
- g. Earthworks shall not commence until temporary measures are installed.
- h. Site personnel must be made aware of all Tree Protection requirements, measures and any actions that constitute a breach of the Conditions of Development Consent with regard to tree protection on site during their site induction.

## 27. Hand excavation within tree root zones

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

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

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

## 28. Level changes in the vicinity of trees

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

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

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

## 29. Removal of Noxious Weeds

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

Common name	Scientific name
Alligator weed	<i>Alternanthera philoxeroides</i>
Bitou bush Boneseed	<i>Chrysanthemoides monilifera</i>
Black knapweed	<i>Centaurea nigra</i>
Blackberry	<i>Rubus fruticosus</i> (agg. spp.)
Broomrape	<i>Orobanche</i> spp.
Cabomba	<i>Cabomba</i> spp.
Castor oil plant	<i>Ricinus communis</i>
Green cestrum	<i>Cestrum parqui</i>
Harrisia cactus	<i>Harrisia</i> spp.
Hawkweed	<i>Hieracium</i> spp.
Horsetail	<i>Equisetum</i> spp.
Karoo thorn	<i>Acacia karroo</i>
Kochia	<i>Kochia scoparia</i>
Lagarosiphon	<i>Lagarosiphon major</i>
Lantana (Pink flowered)	<i>Lantana camara</i>
Lantana (Red flowered)	<i>Lantana camara</i>
Ludwigia	<i>Ludwigia peruviana</i>
Mexican feather grass	<i>Nassella tenuissima</i> syn <i>Stipa tenuissima</i>
Miconia	<i>Miconia</i> spp.
Pampas grass	<i>Cortaderia</i> spp.
Parthenium weed	<i>Parthenium hysterophorus</i>

Pellitory	<i>Parietaria judaica</i>
Prickly pears	<i>Opuntia spp.</i>
Rhus tree	<i>Toxicodendron succedaneum</i>
Salvinia	<i>Salvinia molesta</i>
Senegal tea plant	<i>Gymnocoronis spilanthoides</i>
Siam weed	<i>Chromolaena odorata</i>
Spotted knapweed	<i>Centaurea maculosa</i>
St John's wort	<i>Hypericum perforatum</i>
Water hyacinth	<i>Eichhornia crassipes</i>
Water lettuce	<i>Pistia stratiotes</i>
Willows	<i>Salix spp.</i>

### 30. Amenity Landscaping

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

### 31. Landscaping

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

### 32. Maintenance of Landscaping

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

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

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

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

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

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

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

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

Description	Amount	Indexed	Council Fee Code
<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.	\$28,000	No	T600
<b>Infrastructure Works Bond</b> -Completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.	\$12,500	No	T600
<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	\$13,000 + Index Amount	Yes, quarterly	T94
<b>INSPECTION FEES</b> under section 608 of the Local Government Act 1993			
Security Administration Fee	\$163	No	T16
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	\$53,663 <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?[d1]**

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

**Do you need HELP indexing the levy?**

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

**Deferred periodic payment of section 94A levy under the Woollahra Section 94A Development Contributions Plan 2005[d2]**

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

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

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

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

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

Standard Condition: C5

### 35. Road and Public Domain Works – Council approval required

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

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

Specific works include:

#### Alma Street

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

#### Walker Avenue

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

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

All public domain works must comply with Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" dated January 2003 unless expressly provided otherwise by these conditions. This specification can be downloaded from [www.woollahra.nsw.gov.au](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:** *Road* has the same meaning as in the *Roads Act* 1993.

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

Standard Condition: C13

### 36. Utility Services Generally

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

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

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

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

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

**Note:** The intent of this condition is that the design quality of the development must not be compromised by cables, pipes, conduits, ducts, plant, equipment, electricity substations or the like placed such that they are visible from any adjoining public place. They must be contained within the building unless shown otherwise by the approved development consent plans.

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

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

Standard Condition: C20

### 37. Professional Engineering Details

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

Detailed professional engineering plans and specifications must be submitted to the *Certifying Authority* with the application for any *Construction Certificate*. Standard Condition: C36

### 38. Bicycle, Car and Commercial Parking Details

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

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

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

Standard Condition: C45

### 39. Flood Evacuation Plan

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

The Flood Evacuation Plan must;

- a) Provide a clear outline of events from the initial storm event to the peak flood period. This must include extent of flooding relative to the carpark area and time in which these events are expected to occur from the initial commencement of the storm event.
- b) Provide a evacuation methodology taking into account the expected number of users of the sports field and with respect to the timing of events outlined above.
- c) Proposed measures that will assist in evacuation of the site. These may include (but not be limited to)-
  - Signs identifying the potential for inundation of the site, identifying safe evacuation routes and periods in which these routes may be accessible;
  - Depth markers at low points;
  - Electronic signalling devices.
- d) Any further information as requested by Councils Drainage Engineer that may arise pending on the measures proposed.

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

#### 40. Dilapidation Reports for public infrastructure

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

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

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

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

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

Standard Condition: D5

#### 41. Construction Management Plan – Approval & Implementation

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

The Plan must:-

- a. describe the anticipated impact of the construction works on:
  - i. local traffic routes,
  - ii. pedestrian circulation adjacent to the building site,
  - iii. the public place including crown land and community land,
  - iv. and on-street parking in the local area.

- b. describe the means proposed to:
  - v. manage construction works to minimise such impacts,
  - vi. provide for the standing of vehicles during construction, and
  - vii. provide for the movement of trucks to and from the site, and deliveries to the site.
- c. show the location of:
  - viii. all proposed site sheds and any anticipated use of cranes and concrete pumps,
  - ix. any areas of Council property on which it is proposed to install a Work (construction) Zone, and
  - x. proposed structures such as hoardings, scaffolding or shoring, or to excavate.

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

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

#### 42. Erosion and Sediment Controls – Installation

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

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

Where there is any conflict The Blue Book takes precedence.

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

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

#### 43. Compliance with Construction Management Plan

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

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

**Note:** Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.  
Standard Condition: E3

#### 44. Maintenance of Vehicular and Pedestrian Safety and Access

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

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

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

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

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

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

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

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

Part C Management of Waste:

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

Part E Public roads:

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

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

Standard Condition: E7

#### 45. Maintenance of Environmental Controls

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

- (a) Erosion and sediment controls,
- (b) Dust controls,
- (c) Dewatering discharges, and
- (d) Noise controls.

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

Standard Condition: E11

#### 46. Erosion and Sediment Controls – Maintenance

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

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

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



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

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

**47. Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works Road works and work within the Road and Footway**

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

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

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

**Note:** A copy of Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" can be downloaded free of charge from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)  
Standard Condition: E24

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

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

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

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

Where the relocation or reconstruction of Council's drainage system is approved then all work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council, in connection with the *development* to which this consent relates, must comply with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* dated January 2003.

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

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

**Note:** The Local Government Act 1993 provides:

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

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

- (2) A council may operate, repair, replace, maintain, remove, extend, expand, connect, disconnect, improve or do any other things that are necessary or appropriate to any of its works to ensure that, in the opinion of the council, the works are used in an efficient manner for the purposes for which the works were installed."  
Standard Condition: E27

#### 49. Commissioning and Certification of Systems and Works

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

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

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

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

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

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

#### 50. Commissioning and Certification of Public Infrastructure Works

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

Standard Condition: F9

#### 51. Traffic Signal System

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

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

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

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

## **52. Electricity Substations – Dedication as road and/or easements for access**

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

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

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

Where an electricity substation is provided on the site adjoining the road boundary, the area within which the electricity substation is located must be dedicated as public road. Where access is required across the site to access an electricity substation an easement for access across the site from the public place must be created upon the linen plans burdening the subject site and benefiting the Crown in right of New South Wales and any Statutory Corporation requiring access to the electricity substation. Standard Condition: G4

## **53. Compliance with Flood Evacuation Plan**

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

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

**54. Road Works (including footpaths)**

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

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

**AND**

Alma Street

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

Walker Avenue

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

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

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

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

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

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

## 56. Provision of off-street Public and Visitor Parking

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

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

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

## 57. Dilapidation Reports for existing buildings

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

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

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

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

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by s81A(2) of the *Act* not less than two (2) days prior to the commencement of any work. Standard Condition: D4

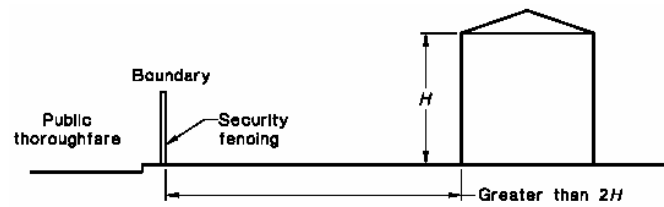
## 58. Construction Certificate required prior to any demolition

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

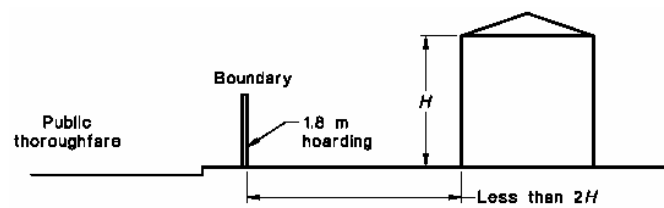
**Note:** See *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.  
Standard Condition: B1

## 59. Security Fencing, Hoarding and Overhead Protection

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



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

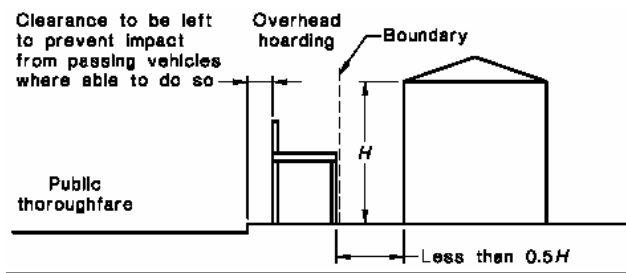


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either

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

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

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



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

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

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

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

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

## 60. Site Signs

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

“Erection of signs

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

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

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

## 61. Toilet Facilities

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

Each toilet provided:

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

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

In this condition:

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

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

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

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

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

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

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

- a. a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited Certifier, and

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

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

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

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

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

### **63. Establishment of boundary location, building location and datum**

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

- a. the boundaries of the *site* by permanent marks (including permanent recovery points);
- b. the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum ("AHD") in compliance with the approved plans;

- c. establishes a permanent datum point (bench mark) within the boundaries of the *site* relative to AHD; and
- d. provides a copy of a survey report by the registered surveyor detailing, the title boundaries, pegs/profiles, recovery points and bench mark locations as established pursuant to this condition to the PCA.

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

**Note:** On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks should be considered by the registered surveyor.  
Standard Condition: D18

#### **64. Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989**

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

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

This condition does not apply:

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

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

Standard Condition: E1

#### **65. Critical Stage Inspections**

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

Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*.

*critical stage inspections* means the inspections prescribed by the *Regulations* for the purposes of section 109E(3)(d) of the *Act* or as required by the *PCA* and any *PCA Service Agreement*.

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

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

## 66. Hours of Work –Amenity of the neighbourhood

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **68. Placement and use of Skip Bins**

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

- a) Activity Approval has been issued by Council under section 94 of the *Local Government Act 1993* to place the waste storage container in a public place, and
- 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

#### **69. Prohibition of burning**

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

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

#### **70. Dust Mitigation**

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

This generally requires:

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

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

## 71. Occupation Certificate (section 109M of the Act)

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

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

## 72. Maintenance of Landscaping

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

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

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

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

## 73. Noise Control

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

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

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

**Useful links:**

**Community Justice Centres**—free mediation service provided by the NSW Government ([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).

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

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

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

**Association of Australian Acoustical Consultants**—professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).

**Department of Gaming and Racing** - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).

Standard Condition: 150

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

- Item No:** R3 Recommendation to Council
- Subject:** **42-42A Wolseley Road, Point Piper – Demolition of existing dwelling-house & residential apartment building & construction of a residential flat building comprising 5 units, 11 off-street car parking spaces, Landscaping & Siteworks – 6/9/2006**
- Author:** David Booth – Senior Assessment Officer
- File No:** DA573/2006
- Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to a substantive change of the recommendation of the Development Control Committee (approval) to the Officer’s recommendation (refusal).

**Note:** Late correspondence was tabled at the meeting from Burley Katon Halliday.

**Motion moved by Councillor Shoebridge  
Seconded by Councillor Excell**

THAT Council, as the consent authority, refuse development consent to DA 573/2006 for the demolition of the existing dwelling-house & residential apartment building and the construction of a residential flat building comprising 4 units, 9 off-street car parking spaces; landscaping and siteworks on land at 42 and 42A Wolseley Road Point Piper, for the following reasons:

1. Due to the excessive floor space ratio, excessive number of storeys and the proposed removal of the majority of the 2 main natural rock features, the proposal would result in significant adverse visual impacts upon Sydney Harbour and adjacent foreshore areas. In this regard, the proposal is unsatisfactory with the following planning provisions:
  - clauses 9, 10, 11, 12 and 14 of SEPP 65-Design Quality of Residential Flat Development and parts 1 and 2 of the Residential Flat Design Code
  - clauses 13 (f) and 25 (b) of SREP (Sydney Harbour Catchment) 2005
  - objectives 2 (a) (ii), (f) (i) & (iii), (h) (ii) & (vi), (l) (ii), and (e) of the Residential 2 (b) zone under Woollahra LEP 1995
  - clause 11AA (b) & (d) of Woollahra LEP 1995
  - clause 19 (2) of Woollahra LEP 1995
  - objective O 4.5.3 and performance criteria C 4.5.7.2 & C 4.5.7.9 of Woollahra RDCP 2003
  - objective 5.11.1 and performance criterion C 5.11.3 of Woollahra RDCP 2003
2. The proposal involves excessive excavation. In this regard, the proposal is unsatisfactory with the following planning provisions:
  - objectives 2 (h) (ii), (l) (i) & (iv) under Woollahra LEP 1995
  - clause 18 (a), (c) & (e) of Woollahra LEP 1995
  - clause 19 (2) of Woollahra LEP 1995
  - objective O 4.5.3 and performance criterion & C 4.5.7.9 of Woollahra RDCP 2003
  - objective O 5.2.4 and performance criterion 5.2.15 of Woollahra RDCP 2003
  - performance criteria C 5.11.1 & C 5.11.21 of Woollahra RDCP 2003

3. The landscape plan and construction impact assessment and management plan submitted with the proposal does not satisfactorily address impacts upon the existing significant Ficus specimen located at the south-western section of the site, the existing significant Brush Box located adjacent to the southern boundary of 44 Wolseley Road and the existing significant Brush Box street tree.

**Amendment moved by Councillor Petrie**

**Seconded by Councillor Walker**

That the recommendation on the Council Agenda be adopted.

**The Amendment was put and lost.**

**The Motion was adopted.**

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

**11/9** THAT Council, as the consent authority, refuse development consent to DA 573/2006 for the demolition of the existing dwelling-house & residential apartment building and the construction of a residential flat building comprising 4 units, 9 off-street car parking spaces; landscaping and siteworks on land at 42 and 42A Wolseley Road Point Piper, for the following reasons:

1. Due to the excessive floor space ratio, excessive number of storeys and the proposed removal of the majority of the 2 main natural rock features, the proposal would result in significant adverse visual impacts upon Sydney Harbour and adjacent foreshore areas. In this regard, the proposal is unsatisfactory with the following planning provisions:
  - clauses 9, 10, 11, 12 and 14 of SEPP 65-Design Quality of Residential Flat Development and parts 1 and 2 of the Residential Flat Design Code
  - clauses 13 (f) and 25 (b) of SREP (Sydney Harbour Catchment) 2005
  - objectives 2 (a) (ii), (f) (i) & (iii), (h) (ii) & (vi), (l) (ii), and (e) of the Residential 2 (b) zone under Woollahra LEP 1995
  - clause 11AA (b) & (d) of Woollahra LEP 1995
  - clause 19 (2) of Woollahra LEP 1995
  - objective O 4.5.3 and performance criteria C 4.5.7.2 & C 4.5.7.9 of Woollahra RDCP 2003
  - objective 5.11.1 and performance criterion C 5.11.3 of Woollahra RDCP 2003
2. The proposal involves excessive excavation. In this regard, the proposal is unsatisfactory with the following planning provisions:
  - objectives 2 (h) (ii), (l) (i) & (iv) under Woollahra LEP 1995
  - clause 18 (a), (c) & (e) of Woollahra LEP 1995
  - clause 19 (2) of Woollahra LEP 1995
  - objective O 4.5.3 and performance criterion & C 4.5.7.9 of Woollahra RDCP 2003
  - objective O 5.2.4 and performance criterion 5.2.15 of Woollahra RDCP 2003
  - performance criteria C 5.11.1 & C 5.11.21 of Woollahra RDCP 2003

3. The landscape plan and construction impact assessment and management plan submitted with the proposal does not satisfactorily address impacts upon the existing significant Ficus specimen located at the south-western section of the site, the existing significant Brush Box located adjacent to the southern boundary of 44 Wolseley Road and the existing significant Brush Box street tree.

**Note:** A Division was called by Councillors Petrie and Martin.

**For the Motion**

Councillor Gardner  
Councillor Martin  
Councillor Excell  
Councillor Shapiro  
Councillor Sinclair King  
Councillor Cullen  
Councillor Shoebridge  
Councillor Huxley

**Against the Motion**

Councillor Comino  
Councillor Petrie  
Councillor Dawson  
Councillor Walker  
Councillor Boskovitz

**8/5**

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- Item No:** R4 Recommendation to Council
- Subject:** **1-3 Prospect Street, Paddington – Section 82A Review of refusal – 17/11/2006**
- Author:** Larissa Northridge – Senior Assessment Officer
- File No:** DA423/2005
- Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to the matter being called by Councillor Shoebridge for the reasons of:
1. Significant non-compliances with Paddington DCP;
  2. Streetscape impact;
  3. Compatability of finishes.

(Comino/Excell)

**Resolved without Debate: Pursuant to Section 82A of the Environmental Planning and Assessment Act, 1979**

- 12/9** THAT the Council, as the consent authority, grant development consent to Development Application No. 423/2005 for alterations to existing brick cottage (No. 1 Prospect Street) and construction of two storey rear addition (3 Prospect Street) on land at 1- 3 Prospect Street Paddington, subject to the following conditions:

**A. General Conditions**

**A.1 Conditions**

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

Standard Condition: A1

**A.2 Definitions**

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

*Applicant* means the applicant for this Consent.

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

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

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

*Council* means Woollahra Municipal Council

*Court* means the Land and Environment Court

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

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

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

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

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

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

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

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

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

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

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

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

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

*Work* for the purposes of this consent means:

- a. the use of land in connection with development,
- b. the subdivision of land,
- c. the erection of a building,
- d. the carrying out of any work,
- e. the use of any site crane, machine, article, material, or thing,
- f. the storage of waste, materials, site crane, machine, article, material, or thing,
- g. the demolition of a building,
- h. the piling, 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)
DA-1101 C to 1103 C, DA1201 C to 1202 C, 1301 C to 1304 C	Architectural Plans	Candalepas Associates	26/05/2006

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

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

### A.4 Prescribed Conditions

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

**Note:** It is the responsibility of those acting with the benefit of this consent to comply with all prescribed conditions under the *Act* and the *Regulation*. Free access can be obtained to all NSW legislation at [www.legislation.nsw.gov.au](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 Recording of significant or contributory buildings prior to any demolition

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

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

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

- a. A copy of the final heritage report submitted with the development application,
- b. A site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties; floor plans at scale of 1:100; postcard sized photographs of:
  - i. each elevation;
  - ii. each structure and landscape feature and significant parts of the property as defined in the submitted statement of significance;
  - iii. views to the subject property from each street and laneway or public space; and
  - iv. external and internal details as nominated in the assessment report by Council's heritage officer.
- c. Each photograph to be mounted, labelled and cross-referenced in accordance with recognised archival recording practice.
- d. The original, coloured, photographic set and one coloured photocopy are to be submitted to the satisfaction of Council's heritage officer prior to the commencement of demolition work and prior to the issue of a construction certificate. The original will be retained by Council and the coloured photocopy will be provided to the Woollahra Local History Library.

Standard Condition: B3

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

### **C.1 Materials**

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

### **C.2 Drainage to Lightwell Garden**

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

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

### C.3 Water conservation

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

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

### C.4 Modification of details of the development (s80A(1)(g) of the Act)

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

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

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

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

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

### C.5 Payment of Security, Levies and Fees (S80A(6) & S94 of the Act, Section 608 of the Local Government Act 1993)

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

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

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

Description	Amount	Indexed	Council Fee Code
<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.	\$7 000	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	\$2 500 + Index Amount	Yes, quarterly	T94
<b>INSPECTION FEES</b> under section 608 of the Local Government Act 1993			
Security Administration Fee	\$163	No	T16
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	\$9 663 <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:

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

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

- the guarantee is by an Australian bank for the amount of the total outstanding contribution;
- 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;
- 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
- 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?**<sup>[d3]</sup>

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**<sup>[d4]</sup>

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

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

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

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

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

Standard Condition: C5

## C.6 Structural Adequacy of Existing Supporting Structures

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

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

Standard Condition: C35

### C.7 Professional Engineering Details

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

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

Standard Condition: C36

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

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

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

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

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

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

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

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

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

[www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

Standard Condition: C49

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

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

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

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

This condition does not apply:

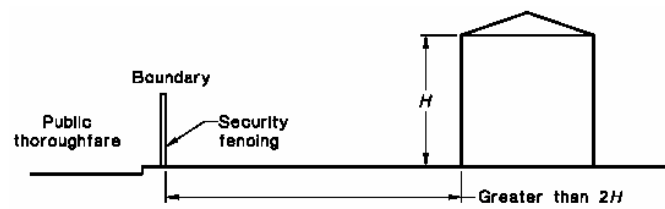
- a. to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4),
- or
- b. to the erection of a temporary building.

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

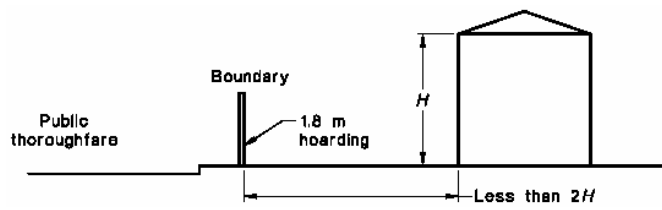
**Note:** This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the *Home Building Act 1989*. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.  
Standard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

### D.2 Security Fencing, Hoarding and Overhead Protection

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



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

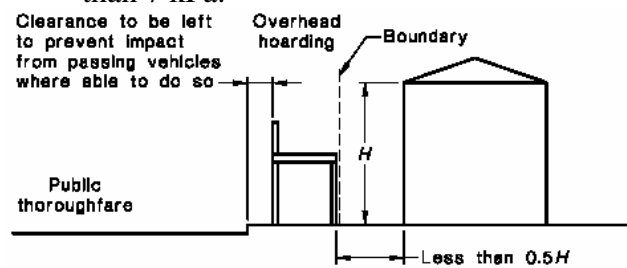


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either

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

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

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



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

The *principal contractor* or *owner builder* must ensure that Overhead Protective Structures are installed and maintained in accordance with WorkCover NSW Code of Practice - Overhead Protective Structures, gazetted 16 December 1994, as commenced 20 March 1995. This can be downloaded from:  
<http://www.workcover.nsw.gov.au/Publications/LawAndPolicy/CodesofPractice/ohheadprotstr ucts.htm>.

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

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

### D.3 Site Signs

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

“Erection of signs

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

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

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

### D.4 Toilet Facilities

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

Each toilet provided:

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

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

In this condition:

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

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

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

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

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

#### D.5 Erosion and Sediment Controls – Installation

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

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

Where there is any conflict The Blue Book takes precedence.

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

**Note:** The “Do it Right On Site, Soil and Water Management for the Construction Industry” publications can be down loaded free of charge from [www.woollahra.nsw.gov.au](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.6 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)**

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

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

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

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

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

**Note:** *Construction Certificate* Application, *PCA Service Agreement* and *Notice of Commencement* forms can be downloaded from Council's website [www.woollahra.nsw.gov.au](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.7 Notification of Home Building Act 1989 requirements**

- a. For the purposes of section 80A (11) of the Act, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.
- b. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
  - i. in the case of work for which a *principal contractor* is required to be appointed:
    - the name and licence number of the principal contractor, and
    - the name of the insurer by which the work is insured under Part 6 of that Act,
  - ii. in the case of work to be done by an owner-builder:
    - the name of the owner-builder, and
    - if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- c. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- d. This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws.  
Standard Condition: D17

**D.8 Establishment of boundary location, building location and datum**

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

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

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

**Note:** On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks should be considered by the registered surveyor.  
Standard Condition: D18

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

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

**Note:** Further information can be obtained from the Sydney Water Corporation on or telephone 13 20 92 or by visiting their web site:  
[http://www.sydneywater.com.au/html/yourhome/quick\\_check/building\\_renovating.cfm](http://www.sydneywater.com.au/html/yourhome/quick_check/building_renovating.cfm)  
Standard Condition: D19

## **E. Conditions which must be satisfied during any development work**

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

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

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

This condition does not apply:

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

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

Standard Condition: E1

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

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

Standard Condition: E2

### E.3 Critical Stage Inspections

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

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

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

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

### E.4 Hours of Work –Amenity of the neighbourhood

- a. No *work* must take place on any Sunday or public holiday,
- b. No *work* must take place before 7am or after 5pm any weekday,
- c. No *work* must take place before 7am or after 1pm any Saturday, and
- d. No piling, 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 out side the approved hours of work will be considered on a case by case basis.

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

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

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

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

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

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

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

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

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

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

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

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

Part C Management of Waste:

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

Part E Public roads:

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

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

### E.8 Tree Preservation & Approved Landscaping Works

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

The following trees may be removed:

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

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

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

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

### E.9 Replacement trees which must be planted

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

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

### E.10 Maintenance of Environmental Controls

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

- (a) Erosion and sediment controls,
- (b) Dust controls,
- (c) Noise controls;

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

### E.11 Support of adjoining land and buildings

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

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

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

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

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

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

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

## E.12 Erosion and Sediment Controls – Maintenance

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

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

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



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

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

Standard Condition: E15

### **E.13 Disposal of site water during construction**

The principal contractor or owner builder must ensure:

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

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

Standard Condition: E17

### **E.14 Check Surveys - boundary location, building location, building height and stormwater drainage system relative to Australian Height Datum**

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

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

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

- f) Stormwater Drainage Systems prior to or post construction confirming location, height and capacity of works.

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

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

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

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

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

### E.16 Prohibition of burning

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

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

### E.17 Dust Mitigation

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

This generally requires:

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

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

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

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

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

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

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

### **H.1 Removal of Ancillary Works and Structures**

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

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

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

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

No relevant conditions

## **J. Miscellaneous Conditions**

No relevant conditions

## **K. Advisings**

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

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

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

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

### **Warnings as to potential maximum penalties**

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

### **Warning as to enforcement and legal costs**

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

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

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

<http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the Attorney General's [www.agd.nsw.gov.au](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 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 appointed a *principal contractor* for residential building work who must be the holder of a contractor licence.

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

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

Standard Condition: K5

#### **K.4 Building Standards - Guide to Standards and Tolerances**

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

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

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

The Guide can be down loaded from:

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

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

Standard Condition: K6

#### **K.5 Workcover requirements**

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

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

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

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

Standard Condition: K7

#### **K.6 Asbestos Removal, Repair or Disturbance**

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

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

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

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

**Note:** The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259. Under the Occupational Health and Safety Regulation 2001, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work. Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. You should make yourself aware of the requirements by visiting [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) or one of Workcover NSW's offices for further advice.  
Standard Advising: K8

## **K.7 Lead Paint**

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

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

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

Standard Advising: K9

## **K.8 Dividing Fences**

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

**Note:** Further information can be obtained from the NSW Department of Lands - <http://www.lands.nsw.gov.au/LandManagement/Dividing+Fences.htm>. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Over 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1800 671 964 or at <http://www.cjc.nsw.gov.au/>.  
Standard Advising: K10

## K.9 Appeal

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

**George Fotis, Team Leader** on (02) 9391 7089

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

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

Standard Condition: K14

## K.10 Release of Security

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

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

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

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

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

**Note:** The Application for Refund of Security form can be downloaded from <http://www.woollahra.nsw.gov.au/pdf/Forms/Planning/RefundofSecurity.pdf>  
Standard Condition: K15

### K.11 Recycling of Demolition and Building Material

It is estimated that building waste, including disposable materials, resulting from demolition, excavation, construction and renovation, accounts for almost 70% of landfill. Such waste is also a problem in the generation of dust and the pollution of stormwater. Council encourages the recycling of demolition and building materials. Standard Condition: K17

### K.12 Owner Builders

Under the *Home Building Act 1989* any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from the Office of Fair Trading. See [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au). Standard Condition: K18

### K.13 Pruning or Removing a Tree Growing on Private Property

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

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the TPO from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or you may contact Council on 9391-7000 for further advice. Standard Condition: K19

### K.14 Compliance with the Building Code of Australia

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

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

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

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

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

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

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

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**Note:** At this stage a Notice of Motion of Rescission signed by Councillors Petrie, Boskovitz and Walker was received by the Mayor in relation to Development Control Committee Item R1 (779 New South Head Road, Rose Bay).

## **Motion for Suspension of Standing Orders**

**Motion moved by Councillor Dawson  
Seconded by Councillor Excell**

That the Notice of Motion of Rescission be brought forward as a Matter of Urgency and be considered by the Council Meeting tonight.

**The Motion was put to the meeting and Lost.**

**The Mayor ruled that the matter was not urgent.**

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## Urban Planning Committee

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### Items with Recommendations from the Committee Meeting of Monday 14 May 2007 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** **Oxford Street, Paddington, Retail Study Findings**  
**Author:** John Davies  
**File No:** 1179.G  
**Reason for Report:** Present study findings and propose some next steps in line with the studies recommendations

(Shapiro/Shoebridge)

**13/9 Resolved without debate:**

1. That Council endorse the actions identified in **annexure 3** of the report on the findings of the Oxford Street Paddington Commercial Centre Business Strategy subject to amending the action “Consider the results of traffic studies that support the fact that the traffic numbers do not support three lanes along Oxford Street” on page 3 of the list of Council Actions to read “Consider the results of traffic studies along Oxford Street”.
2. That the study be made publicly accessible on the Council’s website.
3. That a report be submitted to the Urban Planning Committee outlining what steps are required to facilitate:
  - a. the appointment of centre managers for the Double Bay and Oxford Street Commercial Centres for a suggested period of 3 years with a review after 12 months.
  - b. consideration of reallocating funding from the public domain improvement works to fund the centre managers.
  - c. consideration of co-funding models from retailers and land owners.
  - d. consideration of the appropriate authorities and management structures required to allow the centre managers to effectively operate.
  - e. the parity of times for parking meters in Oxford Street to the parking meters in Double Bay.

**Item No:** R2 Recommendation to Council  
**Subject:** **Double Bay Retail Study Findings**  
**Author:** John Davies  
**File No:** 1178.G  
**Reason for Report:** Present study findings and propose some next steps in line with the studies recommendations

**Note:** Late correspondence was tabled at the meeting from the President of the Double Bay Chamber of Commerce.

**(Shapiro/Shoebridge)**

**14/9 Resolved without debate:**

1. That Council endorse the actions identified in **Annexure 3** of the report to the Urban Planning Committee of 14 May 2007 on the findings of the Double Bay Commercial Centre Development Study.
  2. That the Double Bay Commercial Centre Development Study by HillPDA be made publicly accessible on the Council's website.
  3. That a report be submitted to the Urban Planning Committee outlining what steps are required to facilitate:
    - a. the appointment of centre managers for the Double Bay and Oxford Street Commercial Centres for a suggested period of 3 years with a review after 12 months.
    - b. consideration of reallocating funding from the public domain improvement works to fund the centre managers.
    - c. consideration of co-funding models from retailers and land owners.
    - d. consideration of the appropriate authorities and management structures required to allow the centre managers to effectively operate.
-

**Item No:** R3 Recommendation to Council  
**Subject:** **Draft Amendment to SEPP 64 (Advertising and Signage)**  
**Author:** Team Leader Urban Design - Margaret Zulaikha  
**File No:** 696.G Part 16  
**Reason for Report:** To provide a submission on the draft amendment for the Committee's consideration

**Motion moved by Councillor Shoebridge**  
**Seconded by Councillor Comino**

That the recommendation be adopted subject to the deletion of part c.

**Amendment moved by Councillor Walker**  
**Seconded by Councillor Shapiro**

That the recommendation be adopted.

**The Amendment was put and carried.**  
**The Amendment became the Motion.**  
**The Motion was adopted.**

**Resolved:**

- 15/9** That the submission on Draft SEPP 64 (**Annexure 5**) be submitted to the Department of Planning subject to the following:
- a. the reference to "Sir Syd Einfield Drive" in Section 2 (Advertising in Transport Corridors) being amended to read "Syd Einfield Drive".
  - b. section 2.5.3 (Roof or sky advertisements) being amended to include Council's concern of the effects of plume and light spillage from illuminated advertising signs.
  - c. section 3 (Sponsorship advertising in open space zones) being deleted from the submission.
  - d. section 4 (Election campaign signs) being amended to include that the "election period" under Clause 33(3) should be "3 weeks preceding the day on which the election is held, includes the election day and 2 days after the election day."
-

**Item No:** 11  
**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 14 May 2007 and for Councillors to ask Questions without Notice in accordance with Council's Code of Meeting Practice.

**Motion moved by Councillor Boskovitz**  
**Seconded by Councillor Comino**

**16/9** That the responses to previous Questions without Notice be noted.

**Adopted**

**The following questions were asked:-**

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**Councillor Comino asking:**

What powers does Council have under the Protection of the Environment Act, the Environmental Planning and Assessment Act and the Regulations under those Acts to control lighting of fires and bringing of glass onto Council's beaches and reserves, in particular Parsley Bay Reserve, Watsons Bay beach front, Gibsons Beach and Camp Cove Beach?

**Director Planning and Development in response:**

On notice.

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**Councillor Comino asking:**

Is Council aware of wood rot in parts of Parsley Bay Bridge? If so, what remedial action is being taken?

**Director Technical Services in response:**

I am not aware of that matter but the bridge is inspected from time to time and I will ensure it is inspected again.

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**Councillor Comino asking:**

To the Mayor

Would you circulate in the Councillor Bulletin a summary of the recent discussions with Minister Sartor concerning the Eastern Sydney Development Strategy?

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**Mayor in response:**

Yes.

**Director Planning and Development further in response:**

Yes we will circulate information on that strategy as soon as it is released. I have also indicated to the Urban Planning Committee tonight that we will be reporting formally to the Committee anyway but I am very happy to circulate the documents as soon as they are available.

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**Councillor Excell asking:**

Regarding the refurbishment and restoration of the Rose Bay Promenade and wall. At what stage in the DA, planning, public notification and Council approval process did the proposed dingy storage area become detached from the plan so that it now must come to us as a separate DA?

**Director Technical Services in response:**

On notice.

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**Councillor Shapiro asking:**

I would like to thank the General Manager for placing the various sculptures around Redleaf Chambers so that they can be enjoyed by everyone and please will you also thank the Director Community Services.

**General Manager in response:**

I will.

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**Councillor Sinclair King asking:**

Has Council received a development application for a new marina to replace the Double Bay Marina at Castra Place, Double Bay?

**Director Planning and Development in response:**

No we have not received that application however we are aware that an application is likely to be submitted and details are on the website of the company that owns that marina.

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**Councillor Cullen asking:**

There have been a number of syringes found on the beaches of Camp Cove and Gibsons Reserve. These may be washing down through the stormwater channel from Kings Cross. Is it possible to explore the installation of traps or another solution to protect our residents and their children?

**Director Technical Services in response:**

Yes it is possible to examine that matter.

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**Councillor Shoebridge asking:**

Can Council investigate if there is a lawful consent for the appallingly low grade wire mesh and shade cloth fencing that runs the length of New South Head Road in front of the Royal Sydney Golf Club as it is a blight on the locality?

**Director Planning and Development in response:**

On notice

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**Councillor Martin asking:**

What news has there been from Sydney Rail about the improvement of the temporary White City through-path at the New South Head Road end? I have no response to my question on this of last week.

**Mayor in response:**

I actually made some enquires about that myself today.

**Director Planning and Development further in response:**

The correspondence to Rail Corp has not been issued yet. I will make sure that is done tomorrow.

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**Councillor Excell asking:**

Now that the dingy storage area for the Rose Bay Promenade is a separate issue, when will it be before Council as a DA?

**Director Technical Services in response:**

In July.

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There being no further business the meeting concluded at 10.45pm.

*We certify that the pages numbered 1061 to 1145 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 28 May 2007 and confirmed by Council at the ordinary Meeting of Council on 12 June 2007 as correct.*

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**General Manager**

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**Mayor**