

## **Additional Item**

**Agenda:**            *Application Assessment Panel*

**Date:**             *Tuesday 15 April 2008*

**Time:**            *3.00pm*

**Item:**             *D7*

**Application Assessment Panel**

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

- The Chairperson will call the Meeting to order and ask the Panel/Staff to present apologies or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Panel.
- If person(s) wish to address the Panel, they are allowed three (3) minutes in which to do so. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (eg applicant/objector), the objector speaks first.
- At the conclusion of the allotted three (3) minutes, the speaker resumes his/her seat and takes no further part in the debate unless specifically called to do so by the Chairperson.
- If there is more than one (1) person wishing to address the Panel from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- The Chairperson has the discretion whether to continue to accept speakers from the floor.
- After considering any submissions the Panel will debate the matter (if necessary), and arrive at a resolution.

Note: Matters where there is a substantive change to the recommendation of the Council Officer are referred to the next appropriate meeting of the Application Assessment Panel.

Note: Matters can be “called” from this Panel Meeting to the Development Control Committee (DCC) by Councillors subject to the following requirements:

- Calling requires one Councillor
- A Councillor may call a matter by written or oral request by 3.00pm on the business day preceding the meeting at which the item is listed
- A Councillor who is in attendance at the Application Assessment Panel meeting may call a matter at any time prior to the completion of the meeting by orally advising the Panel Chairperson.

# **Additional Item**

## **Meeting Agenda**

### **Part Two of Two Parts**

| <b>Item</b> | <b>Subject</b> | <b>Pages</b> |
|-------------|----------------|--------------|
|-------------|----------------|--------------|

#### **Items to be Decided by this Committee using its Delegated Authority**

|    |  |         |
|----|--|---------|
| D7 | DA691/2007 – 5 Fullerton Street, Woollahra – Alterations and additions including extending the length of and adding a first floor to the garage and the addition of a new pool house – 24/10/07<br><b>*See Recommendation Page 228</b> | 212-283 |
|----|--|---------|

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                         |   |
|-------------------------|---|
| <b>ITEM No.</b>         | D7  |
| <b>FILE No.</b>         | DA 691/2007/1   |
| <b>PROPERTY DETAILS</b> | 5 Fullerton Street WOOLLAHRA  |
|                         | <b>Lot &amp; DP No.:</b> LOT: 1 DP: 666726  |
|                         | <b>Side of Street:</b> East   |
|                         | <b>Site Area (m<sup>2</sup>):</b> 1074.9  |
|                         | <b>Zoning:</b> Residential 2(b)   |
| <b>PROPOSAL</b>         | Alterations and additions including extending the length of and adding a first floor to the garage and the addition of a new pool house |
| <b>TYPE OF CONSENT:</b> | Local   |
| <b>APPLICANT:</b>       | Blainey North & Associates  |
| <b>OWNER:</b>           | Mr C G & Mrs L Mendel   |
| <b>DATE LODGED:</b>     | 24/10/2007  |
| <b>AUTHOR:</b>          | Ms E Smith  |

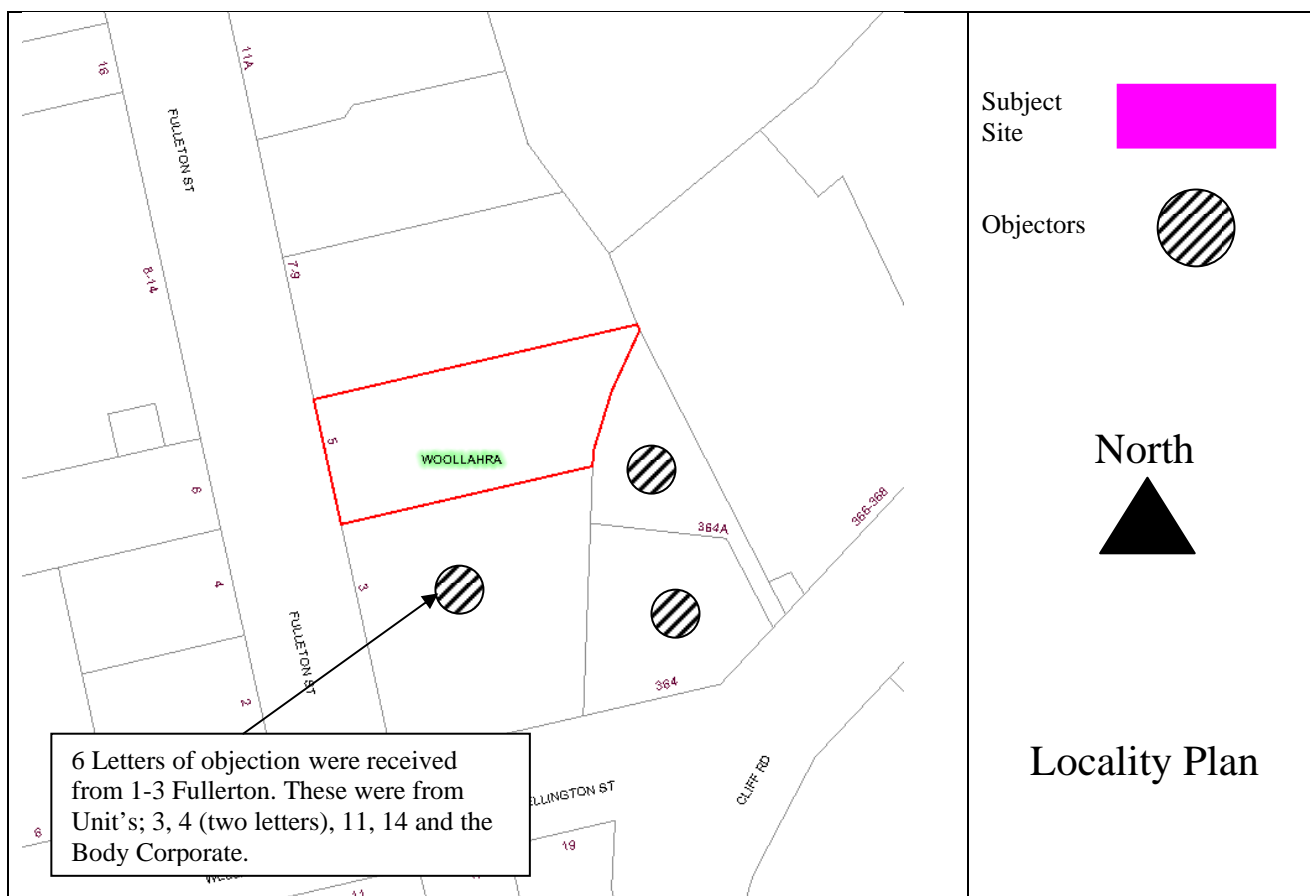
### 1. RECOMMENDATION PRECIS

The application is recommended for approval.

### 2. PROPOSAL PRECIS

The proposal is for alterations and additions including extending the length of and adding a first floor to the garage and the addition of a new pool house.

### 3. LOCALITY PLAN



### 4. DESCRIPTION OF PROPOSAL

The application proposes alterations and additions including extending the length of and adding a first floor to the garage and the addition of a new pool house. Specifically the works proposed involve the following:

#### Ground Floor Level

- a single storey garage addition with two storage areas, which would be located to the front of the existing garage;
- a single storey addition to the rear of the existing garage comprising of a shower, steam room and WC with a pool plant located below;
- an outdoor bar and barbeque area with a timber pergola roof;
- a pool pavilion with a canvas awning;
- a single storey pool room/study;
- external works including: new stone steps, a new blockwork wall to the terrace, a new blockwork wall to the pool edge and glass balustrade to the pool area; and
- landscaping works including: the removal of a Camphor Laurel, four Lilly Pillies and a fig tree, the relocation of two palm trees and additional planting.

#### First Floor Level

- a first floor addition above the existing garage to accommodate a study, which would be accessed from an internal staircase. There are windows located in both the west and east elevation of the addition

## 5. SUMMARY

| Reasons for report  | Issues  | Submissions   |
|---|---|---|
| <p>The DA does not satisfy the criteria for determination under staff delegation as objectors concerns have not been met.</p> | <ul style="list-style-type: none"> <li>• visual and acoustic privacy,</li> <li>• overshadowing,</li> <li>• drainage,</li> <li>• sewerage,</li> <li>• scale, bulk and height,</li> <li>• the development is excessive,</li> <li>• the potential for the loft and garage to be used as a separate dwelling</li> <li>• compliance with controls</li> <li>• impact upon trees</li> <li>• deep soil landscaping</li> <li>• adequacy of car parking spaces</li> <li>• impact on significant items</li> <li>• FSR</li> </ul> | <p>Letters of objection were received from seven neighbouring properties. These included multiple submissions from Unit 4/1-3 Fullerton Street.</p> |

## 6. ESTIMATED COST OF WORKS

Council adopted (DCC 6 June 2005) administrative changes for determining DA fees based on the estimated cost of work. Where the estimated cost of work is greater than \$750,000 or where the applicant's estimate is considered to be neither genuine nor accurate, the applicant has to provide a Quantity Surveyor's report.

The applicant's estimated cost of the proposed development is \$250,000. This figure has been checked using our adopted practice and is considered to be accurate.

## 7. DESCRIPTION OF SITE OF LOCALITY



| <b>THE SITE AND LOCALITY</b>             |   |
|--|---|
| <b>Physical features</b>                 | The subject site is located on the eastern side of Fullerton Street and is rectangular in shape with a splayed rear boundary. The total area of the site is 1074.9m <sup>2</sup> .    |
| <b>Topography</b>                        | The subject site falls approximately 6m from the its north-west to its south-east corner.   |
| <b>Existing buildings and structures</b> | The subject site is occupied by a two-storey Inter-war dwelling with a detached garage to the rear of the site, which is accessed by a driveway to the southern side of the dwelling. |
| <b>Environment</b>                       | The locality is characterised by residential dwellings and residential flat buildings.  |



Photograph 1: The subject site – the existing garage is located to the rear of the entrance gates



Photograph 2: The subject building and swimming pool viewed from the rear.



Photograph 3: The location of the proposed pool pavilion.



Photograph 4: The existing garage on the subject site.

## 8. PROPERTY HISTORY

| <b>PROPERTY HISTORY</b>                |   |
|--|---|
| Current use                            | Residential   |
| Previous relevant applications         | DA 526/1999/1 – for alterations and additions including a new first floor addition over the existing garage was approved on the 9 November 1999 - See Annexure 2<br>DA 527/1999/1 – for air conditioning was approved on the 22 November 1999 |
| Pre-DA                                 | No.   |
| Requests for additional information    | Shadow diagrams requested 11/02/08 drawing no. A12-01 02 received 03.03.08, Additional shadow diagrams and southern elevation requested on 10.03.08 and received on 25.03.08  |
| Amended plans/ Replacement Application | No.   |
| Land & Environment Court appeal        | No.   |

## 9. REFERRALS

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

| INTERNAL REFERRALS   |   |          |
|----------------------|---|----------|
| Referral Officer     | Comment   | Annexure |
| Development Engineer | The proposal is satisfactory subject to the inclusion of the following conditions: A3, C2, C4, C8, D5, E6, E8, E9, E10 and F3 | 2        |
| Landscaping Officer  | The proposal is satisfactory subject to the inclusion of the following conditions: A3, B2, B3, E7, F2, H2, I2 and K14         | 3        |
| Heritage Officer     | The proposal is satisfactory.   | 4        |

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

No external referrals were required.

## ENVIRONMENTAL ASSESSMENT UNDER S.79C

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

## 10. STATE/REGIONAL INSTRUMENTS AND LEGISLATION

### 10.1 SEPPs

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

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. A21575 committing to environmental sustainability measures.

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

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

Under clause 7 (1) (a) of State Environmental Planning Policy No. 55 – Remediation of Land, consideration has been given as to whether the land is contaminated. An assessment of the current and previous uses of the site indicates that the land is unlikely to be contaminated, further consideration under clause 7 (1) (b) and (c) of SEPP 55 is not required.

### 10.2 REPs

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

The proposal would not have an adverse visual impact on the Harbour foreshore. The proposal is therefore consistent with the objectives of the SREP and would satisfy the relevant requirements of the SREP.

### 10.3 Section 94 contribution

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

Levy = 1% (levy rate) x \$250,000.00 (proposed cost of development)  
= \$2,500.00

The total contribution = \$2,500.00

This requirement is outlined in Condition C2.

### 10.4 Other legislation

No other legislation is applicable to this application.

## 11. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 1995

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

The proposal is permissible and is consistent with the aims and objectives of the LEP and the relevant objectives of the 2(b) zone.

### 11.2 Statutory compliance table

| Site Area (1072m <sup>2</sup> ) | Existing                          | Proposed  | Control | Complies   |
|---------------------------------|-----------------------------------|---|---------|------------|
| Overall Height (metres)         | 10.55m<br>(dwelling<br>ridgeline) | 6.95m<br>(first floor<br>addition to<br>garage) | 18m     | <b>YES</b> |

### 11.3 Height

The proposed additions are a maximum height of 6.95m. This complies with the maximum height control of 18m which applies to the site. Further the proposal is consistent with the objectives of the height control.

### 11.4 Other special clauses/development standards

**Clause 18 Excavation:** The pool plant room excavation would be to a depth of 1.1m below the natural ground level. Clause 18(1) states that when considering an application which involves excavation, the Council shall have regard to how that excavation may temporarily or permanently affect:

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

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

The proposed excavation works subject to condition would not result in any adverse impacts in terms of loss of amenity to neighbouring properties.

There is a sufficient distance between the proposed excavation works any roadway to prevent any detrimental impacts to the stability of the roadway.

The proposed excavation works are minor and would not have a minimal impact upon the existing natural landform. Furthermore, the application has been referred to the Council's Tree and Landscaping Officer who has determined that the proposal is satisfactory in terms of tree preservation and landscaping subject to a number of conditions which have been imposed upon the consent.

It is considered that the level of excavation works would not significantly impact upon the natural water runoff patterns.

The proposed excavation is acceptable in terms of Clause 18.

**Clause 19 HFSPA:** The proposal is acceptable in terms of Clause 19(2).

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

**Clause 25 Water, wastewater and stormwater:** The proposal is acceptable in terms of Clause 25(1) and (2). The site has the benefit of an easement for drainage to allow gravity drainage to the street.

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

**Clauses 26-33 Heritage and conservation area provisions:** The proposal is acceptable in terms of Clause 26-33 of the WLEP for the following reasons:

- The subject site is not a heritage item.
- Although there are two heritage items (No.'s 6 and 11 Wellington Street) within the vicinity of the subject site the proposal is a sufficient distance from the heritage items to prevent any detrimental impacts.
- The proposal would not unreasonably impact upon the heritage significance of the Heritage Conservation Area.

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

### **Woollahra Local Environmental Plan 1995 (Amendment No. 60)**

Draft Amendment No. 60 to the WLEP was placed on exhibition from Friday 11 May 2007 to Friday 22 June 2007. The Draft Amendment to the WLEP is not applicable to this proposal.

### 13. DEVELOPMENT CONTROL PLANS

#### 13.1 Compliance table - Woollahra Heritage Conservation Area DCP 2003

| Site Area (1074.9m <sup>2</sup> )                              | Existing                              | Proposed   | Control  | Complies |
|--|---------------------------------------|--|--|----------|
| Floor Space Ratio (m <sup>2</sup> )                            | 0.35:1<br>(378m <sup>2</sup> )        | 0.44:1<br>(476m <sup>2</sup> )                         | 0.55:1<br>(591m <sup>2</sup> )                         | YES      |
| Deep Soil Landscaped Area (m <sup>2</sup> )                    | >25%                                  | >25%   | 25%<br>(269m)  | YES      |
| Excavation Piling & Subsurface Wall Setback (metres)           | >1.5m                                 | >1.5m  | 1.5  | YES      |
| Minimum Floor to Ceiling Height – Habitable Rooms (metres)     | N/A                                   | 1.85m-2.85m<br>(garage loft)<br>2.8m-4m<br>(pavillion) | 2.7  | NO       |
| Solar Access to Ground Level Open Space of Adjacent Properties | 50%<br>Dimension –<br>2.5m<br>2 hours | 50%<br>Dimension –<br>2.5m<br>2 hours                  | 50%<br>Dimension – 2.5m<br>2 hours                     | YES      |
| Private Open Space Per Dwelling                                | >35m <sup>2</sup><br>>3m              | > 35m <sup>2</sup><br>> 3m                             | Area – 35m <sup>2</sup><br>Dimension – 3m              | YES      |
| Principal Area   | >16m <sup>2</sup><br>>4m              | >16m <sup>2</sup><br>>4m                               | Principal Area –<br>16m <sup>2</sup><br>Dimension – 4m | YES      |
| Car Parking Spaces   | 1                                     | 2  | 2  | YES      |
| Location of Car Parking Structures                             | Behind Front Building Line            | Behind Front Building Line                             | Behind Front Building Line                             | YES      |

#### 13.2 Precinct Controls

The proposal conserves the significant characteristics of the Rosemount Precinct and complies with the specific controls for the precinct.

#### 13.3 Significant items and group significant buildings

##### Significant Items

The proposed alterations and additions are located to the side and rear of the subject building and result in only very minor alterations to the original principal building form. This ensures that the heritage significance of the contributory item is not unreasonably compromised.

The proposed development would not unduly impact upon the setting of the subject building or result in the unreasonable loss of any mature trees or landscape elements.

O1 of Section 3.2.1 requires significant items and their outbuildings to be retained. In the statement of heritage impact prepare by Clive, Lucas, Stapleton and Partners, submitted by the applicant, the following comment is made about the garage on site:

*“Although an early structure, the existing garage is a very standard early 20<sup>th</sup> century garage structure of insufficient quality to warrant no change. The proposal retains the majority of the existing building and the extension is proposed in a way that is clearly identified as an alteration”*

The Assessing Officer concurs with this assessment. Council's Heritage Officer has not raised any objection to the works to the garage. The proposal is consistent with O1 of Section 3.2.1.

The proposal generally accords with the relevant controls and objectives set out in section 3.2.1.

### **Original materials, finishes and colours**

The proposal generally accords with section 3.2.2 of the Woollahra HCA DCP as the proposed external materials are appropriate to the context of the site.

### **Alterations and additions to significant items**

The proposal upholds the aims and objectives of section 3.2.3 for the reasons set out below:

- the additions are located predominantly to the rear of the building. This ensures the alterations and additions would not obscure public views of the principal building form;
- the proposed shower room would project 3.5m to the rear of the existing garage which is contrary to C4 of Section 3.3.2. However the shower room would not detrimentally impact upon the character of the significant item as the modest addition would read as an outbuilding rather than an addition to the significant item; and
- the proposed additions are modest in scale and incorporate appropriate roof forms which minimise the level of additional bulk. This ensures that the additions do not compromise or dominate the principal building form

The proposal generally accords with the objectives of section 3.2.3.

### **Traditional building elements**

The proposed roof forms, windows and doors are appropriate to the subject building and would not adversely impact the building's heritage significance in accordance with objective O2 of section 3.2.4.

### **Significant landscape elements**

The subject site's key significance to the conservation area is its streetscape appearance and well landscaped gardens. The proposal includes:

- additional planting; and
- the relocation of two palm trees; and
- the removal of a Camphor Laurel, four Lilly Pillies and a Fig Tree; and
- the retention of a number of other significant trees on site

Subject to conditions the removal of these trees would not unreasonably impact upon the landscape setting of this significant item. Furthermore, the proposed landscaping would contribute to the character of the HCA. As such the proposal is generally in accordance with the aims and objectives of section 3.2.5.

## 13.4 Building Type Controls

The subject property is identified as a free standing multi-storey house.

The proposed alterations and additions which are located predominantly to the rear of the dwelling are of a design and scale which ensures that the proposal does not compromise or dominate the original subject building. As such the proposal is generally in accordance with the aims and objectives of section 3.3.2.

## 13.5 General controls for development

### Building location

The proposal generally accords with the relevant building location controls, for the reasons set out below:

- the proposed development would not cover a greater proportion of the site than the adjoining properties
- the proposed development would provide sufficient deep-soil landscaping and would not unreasonably impact upon the existing trees and vegetation.
- the excavation for the proposed plant room would be over 1.5m from the site boundary

### Building height, form, bulk, scale and character

The proposal generally accords with the relevant objectives and controls set out in section 3.4.4 for the following reasons:

- The height, bulk, scale and form of the proposed additions would not appear out of character with the streetscape.
- Control C1 requires the bulk of buildings to be distributed to minimise overshadowing. The proposals is considered to satisfy this requirements as its complies with the overshadowing and floor space requirements.
- Control C5 requires habitable rooms to have a ceiling height of 2.7m. The proposed loft above the garage would have a ceiling height of 1.85m-2.85m. This is acceptable as the hipped roof and lower ridge height minimises overshadowing to the neighbouring properties.
- The application accords with the maximum floor space ratio for the site prescribed by control C7 of section 3.4.4.
- The applicant has provided shadow diagrams which demonstrate that the proposed development would maintain a minimum of two hours of sunlight afforded to the private open space of the adjoining properties between 9am and 3pm on June 21 in accordance with control C8 and objective O9 of section 3.4.4.
- The bulk and scale of the proposed works and in particular the first floor studio addition is supported for the following reasons:
  - The proposal is a secondary structure to the dwelling and does not overwhelm it.
  - The proposal does not have any unreasonable shadow impacts, as the adjoining dwellings will still receive the required sunlight.
  - The proposed new windows (subject to condition – C1) will not result in any unreasonable loss of privacy to the neighbouring properties.
  - The proposal is not likely to generate a level of noise, greater than that which is reasonable within an urban context.
  - The proposal does not unreasonably enclose the neighbouring properties. The dwelling most affected by the additional bulk is 4/1-3. The courtyard and internal areas of this dwelling will retain an open feel.

- The proposal would not unreasonably impact upon any public or private views in accordance with controls C9 and C10, and objectives O7 and O8 of section 3.4.4.

### **Open space and landscaping**

The proposed areas of private open space and deep soil landscaping are in accordance with the requirements of control C1 of section 3.4.6.

The proposal includes:

- the removal of a Camphor Laurel, four Lilly Pillies and a Fig Tree. This is acceptable to Council as the fig tree is a small specimen which is not covered by a TPO and the Camphor Laurel is not a dominant feature within the landscape. The Camphor Laurel will be replaced with a more appropriate species as part of the landscape works in accordance with condition E7; and
- the relocation of two palm trees; and
- the retention of a number of the other significant trees on site; and
- additional landscaping

The proposal was referred to the Council's Tree and Landscaping Officer who has advised that the proposal is satisfactory subject to the inclusion of the following conditions: **A3, B2, B3, E7, F2, H2, I2 and K14**. Accordingly, these have been imposed upon the consent.

The site currently makes a significant contribution to the landscaped character of the area and will continue to do so. The proposal generally accords with the relevant objectives set out in section 3.4.6.

### **Parking and garages**

The proposed garage would accord with the relevant controls and objectives set out in section 3.4.9 for the following reasons:

- the garage is located to the side of the dwelling and is setback behind the front building line.
- the garage is accessed by the existing crossover
- the location, form, design and height of the proposed garage will ensure that the subject building remains the dominant element within the streetscape

C1 of Section 3.4.9 states that carparking may not be permitted in instances where the parking structure will impact on the health of a significant tree. The proposed extensions to the garage will necessitate the pruning of a *Phoenix canariensis* and the removal of four *Acmena smithi Lilly Pillies*). The Lilly Pillies are not considered to be significant trees and although their loss is unfortunate, a landscape strip will be retained along a significant part of the southern boundary and a number of significant trees retained on other parts of the site. The site currently makes a significant contribution to the landscaped character of the area and will continue to do so.

C7 of Section 3.4.9 permits the erection of a parking structure to the side of the building where there is a minimum side setback of 3m. The Assessing Officer interprets this control as meaning that a parking structure may be located beside a building, only if the building is setback 3m. This is the case with the proposed development, with the dwelling, being setback 4m (approx) from the side boundary.

C13 of section 3.4.9 states that loft structures over garages will be permitted only in the West Woollahra or Grafton precincts or in Sisters Lane. The approval of such a loft is subject to a number of design controls set out in C13 and table 3.29 of section 3.4.9. The subject site is located within the Rosemount precinct which is outside of the areas where loft garages are permitted. However, the proposed loft is not of the typology envisaged by the control. The proposed loft is located above a garage which is set back from the street alignment by over 33m and is contained within a substantial plot. The explanation at the start of section 3.4.9 sets out the reasons behind the objectives and controls. This section highlights, that it is garages built to street alignments which are of specific concern, as these form inappropriate intrusions to the streetscapes.

The substantial setback from the street alignment ensures that the proposed loft would not appear unduly prominent within the streetscape and this setback combined with the design and scale of the proposed loft would ensure that the structure is consistent with the character of the street.

The proposed loft would maintain the required levels of sunlight access to the neighbouring properties and would retain an adequate level of visual and acoustic privacy (subject to condition – C1).

The proposed loft structure has been designed and located to ensure that it would not overwhelm the existing building on site. The simple design of the loft does not mimic the historic detailing of the subject building. This ensures that the structure does not detract from the heritage significance of the contributory item on site.

### **Acoustic and visual privacy**

#### **Acoustic privacy**

The proposed pool plant equipment would be housed in a plant room under the proposed shower room. Condition **I4** has been imposed upon the consent which would restrict the level of noise from the operation of the plant equipment.

The design and location of the proposed additions would ensure that an adequate level of acoustic privacy is maintained to the neighbouring properties.

#### **Visual privacy**

The proposed finished floor level to the pool room would ensure that the windows in the southern elevation of the pool room would not result in any unreasonable impacts in terms of overlooking to the neighbouring properties.

Condition **C1** has been imposed upon the consent which requires the two first floor windows in the eastern and western elevations of the loft addition and the ground floor window in the southern elevation of the shower room addition to be glazed with translucent glass and fixed shut to a height of 1.7m above finished floor level. This ensures that the proposal would maintain an adequate level of visual privacy to the neighbouring properties.

#### **Stormwater management**

The stormwater concept plan shows the stormwater drainage from the proposed addition discharging to the existing stormwater drain located in the easement to the north east corner of the site. Subject to the imposition of a condition upon the consent requiring the submission of a Stormwater Management Plan the proposal would ensure that site stormwater is disposed in a controlled and sustainable manner.

The proposal generally accords with the relevant aims and objectives of section 3.4.13.

### **13.6 Woollahra Access DCP**

The proposal generally accords with the aims and objectives of the Woollahra Access DCP.

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

No other controls apply.

## **14. APPLICABLE REGULATIONS**

The proposal would comply by condition.

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

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

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

### **Acid Sulphate Soil Area**

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

## **17. SUBMISSIONS**

The proposal was advertised and notified in accordance with Council's Advertising and Notifications DCP. Submissions were received from:

Elizabeth Belle Browne,  
364A Edgecliff Road,  
Woollahra

Christopher O'Keefe,  
3/1-3 Fullerton Street,  
Woollahra

Gwen Storey Allen,  
11/1-3 Fullerton Street,  
Woollahra

Paul Birchall,  
14/1-3 Fullerton Street,  
Woollahra

Wesley Browne,  
364 Edgecliff Road,  
Woollahra

Paul and Rebecca Bird,  
4/1-3 Fullerton Street,  
Woollahra

John Chippindale (on behalf of the Body Corporate Strata Plan No 16668)  
Executive Committee Member  
Strata Plan 16668  
1-3 Fullerton Street,  
Woollahra

The objectors raised the following issues:

- *the development is excessive*
  - This is addressed in the 'Alterations and additions to significant items' and 'Building height, form, bulk, scale and character' sections of the report.
- *height and scale*
  - This is addressed in the 'Building height, form, bulk, scale and character' section of the report.
- *overshadowing*
  - This is addressed in the 'Building height, form, bulk, scale and character' section of the report.
- *stormwater drainage*
  - This is addressed in the 'Stormwater management' section of the report.
- *acoustic and visual privacy*
  - This is addressed in the 'Acoustic and visual privacy' section of the report.
- *the creation of an additional residence*
  - This is addressed in the 'Acoustic and visual privacy' section of the report.
- *the proposed works will result in the loss of a greater number of trees than is shown*
  - Council's landscape officer has undertaken an additional site inspection to ensure all affected trees have been appropriately assessed.
- *The submitted plans and documentation are inadequate.*
  - The assessment officer is of the opinion that the plans are adequate and comply with the requirements of Schedule 1 of the Environmental Planning and Assessment Regulations 2000.

- *Use of garage and studio*
  - Concern has been raised that the garage and studio may be used for another purpose, such as a separate dwelling. Council may only assess the application from the information before it and has no reason to doubt what is shown on the plans. The owner has provided a statutory declaration which declares that they do not intend to subdivide the studio / garage and sell them as a separate dwelling.
- *Adequacy of carparking spaces*
  - Councils engineer has assessed the application and is satisfied that the garage design is acceptable.
- *Compliance with Council controls.*
  - A detailed assessment of the proposals compliance with Councils controls, including but not limited to 3.1.1, 3.2.1, 3.2.3, 3.4.3, 3.4.4 and 3.4.9 has been undertaken above. It is considered that the assessment has dealt with the compliance issues raised by the objectors.
- *Impact upon significant items.*
  - This is addressed in the ‘Significant items and group significant buildings’ section of the report.
- *Floor Space Ratio*
  - This is addressed in the ‘Building height, form, bulk, scale and character’ section of the report.

## 18. CONCLUSION - THE PUBLIC INTEREST

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

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

THAT the Council, as the consent authority, grant development consent to DA 691/2007/1 for alterations and additions including extending the length of and adding a first floor to the garage and the addition of a new pool house on land at 5 Fullerton Street, Woollahra, 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,
- 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)          |
|---|----------------------------|------------------------------------|------------------|
| A1-01<br>A1-02<br>A1-03<br>A3-01<br>A3-02<br>A3-03<br>A3-04<br>A4-01<br>A4-02 | Architectural Plans        | Blainey North & Associates Pty Ltd | 04 April 2007    |
| A3_05   | Architectural Plan         | Blainey North & Associates Pty Ltd | 19 March 2008    |
| A21575  | BASIX Certificate          | Department of Planning             | 24 October 2007  |
| LP01-4107   | Landscape Plan             | William Dangar & Associates        | October 2007     |
| 5 Fullerton St  | Arborist Report            | Glenyss Laws                       | 16 October 2007  |
| 5 Fullerton St<br>Arborist<br>Report  | Tree Management Plan       | Glenyss Laws                       | 16 October 2007  |
| C01   | Stormwater Management Plan | C & M Consulting Engineers         | 21 November 2007 |

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

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

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

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

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

#### **A.5 Prescribed Conditions**

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

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

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

#### **B.1 Construction Certificate required prior to any demolition**

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

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

#### **B.2 Establishment of Tree Protection Zones**

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

##### (a) Tree Protection Zone areas

| <b>Council Reference No:</b> | <b>Species</b>      | <b>Location</b> | <b>Radius from Trunk (Metres)*</b> |
|------------------------------|---------------------|-----------------|------------------------------------|
| 1                            | Ficus macrophyla    | N/W boundary    | 8m                                 |
| 3                            | Cinnamomum camphora | N/W boundary    | 4m                                 |
| 6                            | Cinnamomum camphora | N/W boundary    | 4m                                 |

|   |                     |              |    |
|---|---------------------|--------------|----|
| 7 | Cinnamomum camphora | N/W boundary | 4m |
| 8 | Kentia forsteriana  | N/W boundary | 2m |
| 9 | Phoenix canariensis | N/W boundary | 2m |

**Note:** No works are to commence within tree protection zone radius indicated until the site Arborist has inspected the site to identify compliance with recommendations of the approved Arborist Report. Certification reports are to be provided by the Arborist to the certifying authority regarding compliance with the approved report and any other recommendations provided at site inspections.

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

| Council Reference No: | Species             | Location                               |
|-----------------------|---------------------|--|
| 1                     | Ficus macrophyla    | N/W boundary                           |
| 3                     | Cinnamomum camphora | N/W boundary                           |
| 6                     | Cinnamomum camphora | N/W boundary                           |
| 7                     | Cinnamomum camphora | N/W boundary                           |
| 8                     | Kentia forsteriana  | N/W boundary                           |
| 9                     | Phoenix canariensis | N/E Corner adjacent to existing garage |
| 11                    | Phoenix canariensis | N/E Boundary adjacent to boundary line |
| 10                    | Acmena smithii      | E Boundary adjacent to fenceline       |

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

- (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) The storage of materials, stockpiling, siting of works sheds, preparation of mixes, cleaning of tools or equipment is not permitted within Tree Protection Zones.

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

### B.3 Tree Preservation & Approved Landscaping Works

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

- a) The following trees must be retained:

### Trees on Private Land

| Council Reference No: | Species             | Location                               | Dimension (Metres) |
|-----------------------|---------------------|--|--------------------|
| 1                     | Ficus macrophyla    | N/W boundary                           | 16m                |
| 3                     | Cinnamomum camphora | N/W boundary                           | 12m                |
| 6                     | Cinnamomum camphora | N/W boundary                           | 12m                |
| 7                     | Cinnamomum camphora | N/W boundary                           | 12m                |
| 8                     | Kentia forsteriana  | N/W boundary                           | 7m                 |
| 9                     | Phoenix canariensis | S/E Corner adjacent to existing garage | 11m                |
| 11                    | Phoenix canariensis | S/E Boundary adjacent to fence line    | 11m                |
| 10                    | Acmena smithii      | S Boundary adjacent to fenceline       | 10m                |

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

| Council Reference No: | Species             | Location     | Dimension (Metres) |
|-----------------------|---------------------|--------------|--------------------|
| 4&5                   | Phoenix canariensis | N/W boundary | 6m                 |

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

- c) The following trees may be removed:

| Council Reference No: | Species             | Location                         | Dimension (Metres) |
|-----------------------|---------------------|----------------------------------|--------------------|
| 2                     | Cinnamomum camphora | N/W boundary                     | 12m                |
| 12                    | Acmena smithii      | S Boundary adjacent to fenceline | 10m                |
| 13                    | Acmena smithii      | S Boundary adjacent to fenceline | 10m                |
| 14                    | Acmena smithii      | S Boundary adjacent to fenceline | 10m                |
| 15                    | Acmena smithii      | S Boundary adjacent to fenceline | 10m                |

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

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

| Council Reference No: | Species             | Location                               | Approved pruning specification (extent of pruning)               |
|-----------------------|---------------------|--|--|
| 9                     | Phoenix canariensis | S/E Corner adjacent to existing garage | Lifting of crown to accommodate proposed new building elevation. |

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

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

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

Standard Condition: E9

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

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

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

- a. To ensure the visual privacy of the neighbouring properties, the first floor windows in the eastern and western elevations of the loft addition and the ground floor window in the southern elevation of the shower room addition shall be glazed with translucent glass and fixed shut to a height of 1.7m above finished floor level.

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

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

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

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

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

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

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

| Description  | Amount                    | Indexed        | Council Fee Code |
|--|---------------------------|----------------|------------------|
| <b>SECURITY</b><br>under section 80A(6) of the Environmental Planning and Assessment Act 1979  |                           |                |                  |
| <b>Property Damage Security Deposit -</b><br>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.   | \$7,000.00                | No             | T115             |
| <b>DEVELOPMENT LEVY</b><br>under Woollahra Section 94A Development Contributions Plan 2005<br>This plan may be inspected at Woollahra Council or downloaded from our website<br><a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> . |                           |                |                  |
| Development Levy (S94A)  | \$2,500.00 + Index Amount | Yes, quarterly | T96              |

| <b>INSPECTION FEES</b>                                 |  |    |     |
|--|--|----|-----|
| under section 608 of the Local Government Act 1993     |  |    |     |
| Public Road and Footpath Infrastructure Inspection Fee | \$363.25   | No |     |
| Security Administration Fee                            | \$168  | No | T16 |
| <b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>  | <b>\$10,031.25</b><br><b>Plus any relevant indexed amounts and long service levy</b> |    |     |

**How must the payments be made?**

Payments must be made by:

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

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

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

**How will the section 94A levy be indexed?**

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

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

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

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

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

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

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

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

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

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

Standard Condition: C5

### C.3 BASIX commitments

The *applicant* must submit to the *Certifying Authority* *BASIX Certificate* No. A21575 with any application for a *Construction Certificate*.

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

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

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

Standard Condition: C7

### C.4 Soil and Water Management Plan – Submission & Approval

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

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

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

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

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

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

**Note:** Pursuant to clause 161(1)(a)(5) of the *Regulation* an *Accredited Certifier* may satisfied as to this matter.  
Standard Condition: C25

## C.5 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.6 Professional Engineering Details

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

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

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

Standard Condition: C36

## C.7 Bicycle, Car and Commercial Parking Details

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

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

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

## C.8 Stormwater management plan (Clause 25(2) WLEP 1995)

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

The *Stormwater Management Plan* must detail:

- (a) general design in accordance with Stormwater disposal concept plan prepared by C & M Consulting Engineers, dated 21/11/07 other than amended by this and other conditions;
- (b) the discharge of stormwater, by direct connection, to Easement A 391991;
- (c) compliance the objectives and performance requirements of the BCA;

- (d) any rainwater tank proposed or required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*, and
- (e) general compliance with the Council's draft Development Control Plan Stormwater Drainage Management (draft version 1, public exhibition copy dated 23 August 2004).

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

### **Layout plan**

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

It must include:

- All pipe layouts, dimensions, grades, lengths and material specification,
- All invert levels reduced to Australian Height Datum (AHD),
- Location and dimensions of all drainage pits,
- Point and method of connection to Councils drainage infrastructure.

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

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

## **C.9 Swimming and Spa Pools – Child Resistant Barriers**

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

**Note:** A statement to the effect that isolation swimming pool fencing complying with AS1926 will be installed does not satisfy this condition. The location of the required barriers and the sign must be detailed upon the *Construction Certificate* plans.  
Standard Condition: C55

## **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:

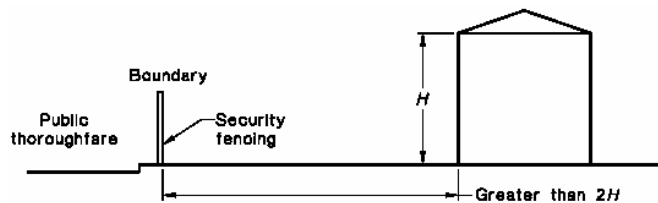
- a. to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4),  
or
- b. to the erection of a temporary building.

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.

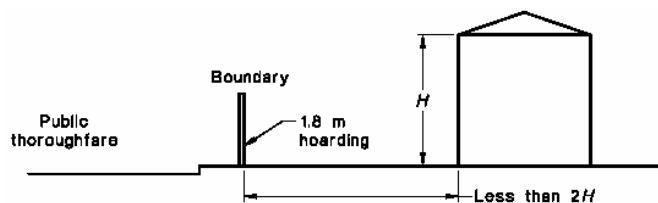
**Note:** This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the Home Building Act 1989. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.  
Standard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

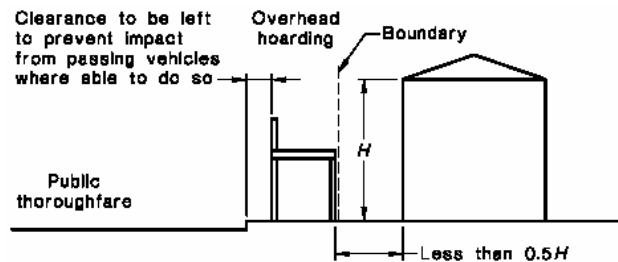


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either

- 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

## **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 Requirement to notify about new evidence**

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

Standard Condition: E4

## **E.4 Critical Stage Inspections**

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

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

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

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

Standard Condition: E5

## **E.5 Hours of Work –Amenity of the neighbourhood**

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

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

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

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

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

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

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

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

## **E.6 Maintenance of Vehicular and Pedestrian Safety and Access**

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

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

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

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

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

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

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

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

Part C Management of Waste:

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

Part E Public roads:

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

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

## E.7 Tree Preservation & Approved Landscaping Works

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

- a) The following trees must be retained:

### Trees on Private Land

| Council Reference No: | Species             | Location                               | Dimension (Metres) |
|-----------------------|---------------------|--|--------------------|
| 1                     | Ficus macrophyla    | N/W boundary                           | 16m                |
| 3                     | Cinnamomum camphora | N/W boundary                           | 12m                |
| 6                     | Cinnamomum camphora | N/W boundary                           | 12m                |
| 7                     | Cinnamomum camphora | N/W boundary                           | 12m                |
| 8                     | Kentia forsteriana  | N/W boundary                           | 7m                 |
| 9                     | Phoenix canariensis | S/E Corner adjacent to existing garage | 11m                |
| 11                    | Phoenix canariensis | S/E Boundary adjacent to fence line    | 11m                |
| 10                    | Acmena smithii      | S Boundary adjacent to fenceline       | 10m                |

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

| Council Reference No: | Species             | Location     | Dimension (Metres) |
|-----------------------|---------------------|--------------|--------------------|
| 4&5                   | Phoenix canariensis | N/W boundary | 6m                 |

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

c) The following trees may be removed:

| Council Reference No: | Species             | Location                         | Dimension (Metres) |
|-----------------------|---------------------|----------------------------------|--------------------|
| 2                     | Cinnamomum camphora | N/W boundary                     | 12m                |
| 12                    | Acmena smithii      | S Boundary adjacent to fenceline | 10m                |
| 13                    | Acmena smithii      | S Boundary adjacent to fenceline | 10m                |
| 14                    | Acmena smithii      | S Boundary adjacent to fenceline | 10m                |
| 15                    | Acmena smithii      | S Boundary adjacent to fenceline | 10m                |

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

d) The following trees must be planted:

| Council Reference No: | Species                 | Location                 | Dimension (Metres)  |
|-----------------------|-------------------------|--------------------------|---|
| N/A                   | Cupressess sp (Cypress) | Within the site boundary | 100 litre stock size from a species capable of reaching a height of at least 8m |

Standard Condition: E9

## E.8 Maintenance of Environmental Controls

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

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

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

## E.9 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.10 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.11 Site Cranes

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

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

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

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

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

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

#### **E.12 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.13 Placement and use of Skip Bins

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

- a) Activity Approval has been issued by Council under section 94 of the *Local Government Act 1993* to place the waste storage container in a public place, and
- b) Where located on the road it is located only in a 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.14 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.15 Dust Mitigation

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

This generally requires:

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

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

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

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

## **E.16 Swimming and Spa Pools – Temporary Child Resistant Barriers and other matters**

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. Certification from the supervising professional engineer that the requirement of the Geotechnical / Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b. All flood protection measures.
- c. All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1 – “Off-Street car parking.”

- d. All stormwater drainage systems.
- e. All mechanical ventilation systems.
- f. All hydraulic systems.
- g. All structural work.
- h. All acoustic attenuation work.
- i. All waterproofing.
- j. Such further matters as the *Principal Certifying Authority* may require.

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

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

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

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

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

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

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

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

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

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

No relevant conditions.

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

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No. A21575.

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

### **H.2 Landscaping**

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

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

### **H.3 Removal of Ancillary Works and Structures**

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

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

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

### **H.4 Road Works (including footpaths)**

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

- a. stormwater pipes, pits and connections to public stormwater systems within the *road*;
- b. driveways and vehicular crossings within the *road*;
- c. removal of redundant driveways and vehicular crossings;
- d. new footpaths within the *road*;
- e. new or replacement street trees;

- f. new footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.
- g. new or reinstated kerb and guttering within the *road*; and
- h. new or reinstated road surface pavement within the *road*.

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

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

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

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. A21575.

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

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

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

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

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

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

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

Swimming and Spa Pools must be maintained:

- a. in compliance with the *Swimming Pools Act* 1992 with regard to the provision of child-resistant barriers and resuscitation signs;
- b. in compliance with the NSW Health "Public Swimming Pool and Spa Pool Guidelines" in force at that time. Private pools are encouraged to comply with the same standards as applicable;
- c. in compliance with AS 1926.3-2003:Swimming pool safety - Water recirculation and filtration systems ;

- d. with backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e. with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
  - before 8 am or after 8 pm on any Sunday or public holiday, or
  - before 7 am or after 8 pm on any other day.

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

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

#### **I.4 Noise from mechanical plant and equipment**

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

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

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

#### **J. Miscellaneous Conditions**

No relevant conditions.

#### **K. Advisings**

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

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

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

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

## Warnings as to potential maximum penalties

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

## Warning as to enforcement and legal costs

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

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

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

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

Standard Advising: K1

## K.2 Dial before you dig



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

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

Standard Advising: K2

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

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

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

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

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

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

Standard Advising: K3

#### **K.4 Builders Licences and Owner Builders Permits**

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

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

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

Standard Condition: K5

#### **K.5 Building Standards - Guide to Standards and Tolerances**

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

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

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

The Guide can be down loaded from:

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

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

Standard Condition: K6

#### **K.6 Workcover requirements**

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

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

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

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

Standard Condition: K7

## **K.7 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.8 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.9 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.10 Appeal**

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

**Eleanor Smith, Assessment Officer** on (02) 9391 7090

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.11 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.12 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.13 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.14 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

Ms E Smith  
**ASSESSMENT OFFICER**

Mr M Schofield  
**TEAM LEADER**

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## **ANNEXURES**

1. Plans and elevations
2. Technical Services Referral
3. Trees and Landscaping Referrals
4. Heritage Referral