



# Ordinary Council Meeting

**Agenda:** *Ordinary Council Meeting*

**Date:** *Monday 9 July 2007*

**Time:** *8.00pm*

# Woollahra Municipal Council

## Notice of Meeting

5 July 2007

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

Dear Councillors

### **Council Meeting – 9 July 2007**

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Ordinary Council Meeting** to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Monday 9 July 2007 at 8.00pm.**

Gary James  
General Manager

## Meeting Agenda

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1.	Confirmation of Minutes – Ordinary Meeting	25 June 2007
2.	Leave of Absence and Apologies	
3.	Declarations of Interest	
4.	Late Correspondence	
5.	Petitions Tabled	
6.	Mayoral Minute	Nil
7.	Public Forum	
8.	General Manager’s Report	Nil
9.	Reports of the Committees	
9.1	Corporate & Works Committee	2 July 2007
R1	Minutes of the Floodplain Risk Management Committee Meeting held on Wednesday 9 May 2007 and Recommendations	1
R2	Report from Legal Sub-Committee Meeting held on 26 June 2007	
9.2	Development Control Committee	2 July 2007
R1	419-421 New South Head Road, Double Bay (Georges Restaurant) & 423-431 New South Head Road, Double Bay (Golden Sheaf Hotel) – Alterations & additions to existing Golden Sheaf Hotel & Georges’s Restaurant – Change of use of Georges’s Restaurant to a Hotel & use of Level 3 of the Golden Sheaf Hotel as offices – 30/8/2006	2
R2	41 Glenview Street, Paddington – Alterations & Additions To existing dwelling including demolition of existing carport, construction of garage to the rear & new landscaping – 29/9/2006	
9.3	Urban Planning Committee	25 June 2007
R1	25 Hamilton Street Rose Bay – Consideration as a Heritage Item	36
R2	Rezoning at 4A Nelson Street, Woollahra	
9.4	Community & Environment Committee	25 June 2007
R1	Confirmation of Minutes of Meeting Held on 12 June 2007	37
R2	Extraordinary Meeting - Woollahra Traffic Committee Minutes - 25 June 2007	
R3	Public Art Advisory Committee Minutes	
10.	Rescission Motion	Nil
11.	Notices of Motion	39
12.	Questions without Notice	40

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## 9.1 Corporate & Works Committee

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### Items with Recommendations from the Committee Meeting of Monday 2 July 2007 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** **Minutes of the Floodplain Risk Management Committee Meeting held on Wednesday 9 May 2007 and Recommendations**  
**Author:** Myl Senthilvasan - Asset Management Engineer (Drainage)  
**File No:** 626.G Committee  
**Reason for Report:** To report on the outcomes of the Floodplain Risk Management Committee meeting, held Wednesday, 9 May 2007 and recommend further actions.

**Recommendation:**

- A. That the minutes of the FPRMC meeting, 9 May 2007, be noted.
- B. That Waverley Council be invited to participate in the Floodplain Risk Management Process for the Rose Bay Catchment.

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**Item No:** R2 Recommended to Council  
**Subject:** **Report from Legal Sub-Committee Meeting held on 26 June 2007**  
**Author:** Brett Daintry - Acting Director Planning & Development  
**File No:** 795.G  
**Reason for Report:** To consider the recommendations from the Legal sub-Committee meeting held on 26 June 2007.

In accordance with Council's Codes & Policy this matter is referred to the Council meeting for further consideration due to a substantive change from the Officer's recommendation.

**Recommendation:**

- 1. That the Recommendations for Items R1 to R4 of the Legal Sub-Committee meeting held on 26 June 2007 be adopted subject to Recommendation 1b. for Items R3 and R4 being amended to relate to applications for steep sites only.
- 2. That the confidential Agenda and Reports for the meeting of the Legal Sub-Committee meeting held on 26 June 2007 remain confidential.
- 3. That the Minutes be amended to reflect the attendance of Councillor Gardner.

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## 9.2 Development Control Committee

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### Items with Recommendations from the Committee Meeting of Monday 2 July 2007 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council

**Subject:** **419-421 New South Head Road, Double Bay (Georges Restaurant) & 423-431 New South Head Road, Double Bay (Golden Sheaf Hotel) – Alterations & additions to existing Golden Sheaf Hotel & Georges’s Restaurant – Change of use of Georges’s Restaurant to a Hotel & use of Level 3 of the Golden Sheaf Hotel as offices – 30/8/2006**

**Author:** Simon Taylor - Assessment Officer

**File No:** DA555/2006

**Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to the matter being called by Councillor Comino for the reason that there is a public interest in the matter as well as a current issue involving section 94 levies in Double Bay for Carparking.

**Recommendation:**

That consideration of Development Application No. 555/2006 – 419-421 New South Head Road, Double Bay (Georges Restaurant) & 423-431 New South Head Road, Double Bay (Golden Sheaf Hotel) – Alterations & additions to existing Golden Sheaf Hotel & Georges’s Restaurant – Change of use of Georges’s Restaurant to a Hotel & use of Level 3 of the Golden Sheaf Hotel as offices be deferred to enable Council to obtain further advice as to the reasonableness of imposing the Section 94 contribution and the identification of all previous Development Applications that are still current on the subject site.

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- Item No:** R2 Recommendation to Council
- Subject:** **41 Glenview Street, Paddington – Alterations & Additions To existing dwelling including demolition of existing carport, construction of garage to the rear & new landscaping – 29/9/2006**
- Author:** Thomass Wong – Senior Assessment Officer
- File No:** DA687/2006
- Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to the matter being called by Councillor Excell for the following reason:
- Loss of amenity to neighbours

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

THAT the Council, as the consent authority, is of the opinion that the objection under *State Environmental Planning Policy No. 1 – Development Standards* to Height of building – development standard under Woollahra Local Environmental Plan 1995 is well founded. The Council is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as the development will not adversely impact on views, not create additional overshadowing and will achieve the objectives of the height standard.

**AND**

THAT the Council, as the consent authority, being satisfied that the objection under SEPP No. 1 is well founded and also being of the opinion that the granting of consent to Development Application No. 687/2006 is consistent with the aims of the Policy, grant development consent to DA No. 687/2006 for alterations and additions to existing dwelling including demolition of existing carport, construction of garage to the rear and new landscaping on land at 41 Glenview Street Paddington, subject to the following conditions:

**A. General Conditions**

**A.1 Conditions**

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

Standard Condition: A1

**A.2 Definitions**

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

*Applicant* means the applicant for this Consent.

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

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

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

*Council* means Woollahra Municipal Council

*Court* means the Land and Environment Court

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

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

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

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

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

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

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

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

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

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

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

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

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

*Work* for the purposes of this consent means:

- a. the use of land in connection with development,
- b. the subdivision of land,
- c. the erection of a building,
- d. the carrying out of any work,
- e. the use of any site crane, machine, article, material, or thing,

- f. the storage of waste, materials, site crane, machine, article, material, or thing,
- g. the demolition of a building,
- h. the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- i. the delivery to or removal from the *site* of any machine, article, material, or thing, or
- j. the occupation of the *site* by any person unless authorised by an *occupation certificate*.

**Note: Interpretation of Conditions** - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.  
Standard Condition: A2

### A.3 Approved Plans and supporting documents

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

Reference	Description	Author/Drawn	Date(s)
06012.001DA (Rev 03)	Architectural Plans	Tzannes Associates	16/4/2007
06012.002DA (Rev 03)	Architectural Plans	Tzannes Associates	16/4/2007
06012.100DA (Rev 03)	Architectural Plans	Tzannes Associates	16/2/2007
06012.101DA (Rev 02)	Architectural Plans	Tzannes Associates	23/1/2007
06012.102DA (Rev 03)	Architectural Plans	Tzannes Associates	16/4/2007
06012.103DA (Rev 03)	Architectural Plans	Tzannes Associates	16/4/2007
06012.200DA (Rev 02)	Architectural Plans	Tzannes Associates	23/1/2007
06012.201DA (Rev 03)	Architectural Plans	Tzannes Associates	16/4/2007
06012.202DA (Rev 03)	Architectural Plans	Tzannes Associates	16/4/2007
06012.203DA (Rev 03)	Architectural Plans	Tzannes Associates	16/4/2007
06012.300DA (Rev 04)	Architectural Plans	Tzannes Associates	16/4/2007
1 of 1	Planting Plan	Paul Bangay Garden Design	22/1/2007
Tree Report – Site Address: 41 Glenview Street, Paddington	Arborist Report (Tree Management Plan included)	Mark Hartley	23 January 2007
Project No. 2006-0286 Dwgs HDA01 & HDA02	Stormwater Management Plan	Whipps Wood Consulting	28 September 2006

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

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

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

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

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

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

### B.1 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 established around all trees to be retained on site. The Tree Protection Zones are to comply with the following requirements;

(a) Tree Protection Zone areas

Council Reference No:	Species	Location	Radius from Trunk (Metres)*
1	<i>Jacaranda mimosifolia</i> Jacaranda	Front – Council verge west	1m
2	<i>Koelreuteria paniculata</i> Golden Rain Tree	Front – Council verge east	1m
7	<i>Magnolia grandiflora</i> Bull Bay Magnolia	Rear – North east corner	2m

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

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

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

Council Reference No:	Species	Location
7	<i>Magnolia grandiflora</i> Bull Bay Magnolia	Rear – North east corner

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

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

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

Standard Condition: B5

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

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

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

- a. the western rear wing addition is amended in the following manner:
  - in order to create a breezeway along the western boundary the western wall on Level 2 is to be set back 1m towards the east; and
  - the roof is to be in a skillion form with the same pitch as that of the eastern wing.
- b. the outer edge of the rear balcony on Level 2, together with the planter box and supporting columns, is to be set back 1.1m from the southern boundary. The Level 2 rear balcony is also to be set back 1m from both the eastern and western side boundaries.
- c. the dormer window is to incorporate a gable roof with the pediment infill by weatherboards and the cheeks covered in weatherboard or corrugated profile steel sheeting in accordance with control G8 under Part 5.2.1 of the Paddington Development Control Plan;
- d. the number of skylight on the rear roof plane of the original terrace is limited to one and the skylight is centrally located on this plane; and
- e. the existing rear chimney is to be retained.
- f. the rear double garage is amended to meet the following requirements:
  - the width of the pillar to the west of the garage door is at least 470mm.

- g. The proposed masonry boundary wall along the eastern boundary (facing No 39 Glenview Street) is to have a smooth rendered finish and is to be no higher than the existing boundary wall.
- h. The wall of the new terrace building along the western boundary (facing No 45 Glenview Street) is to have a smooth rendered finish.

**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

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

Description	Amount	Indexed	Council Fee Code
<b>LONG SERVICE LEVY</b>			
under Building and Construction Industry Long Service Payments Act 1986			
<b>Long Service Levy</b> Use Calculator: <a href="http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm">http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm</a>	Contact LSL Corporation or use their online calculator	No	
<b>SECURITY</b>			
under section 80A(6) of the Environmental Planning and Assessment Act 1979			
<b>Property Damage Security Deposit -</b> Making good any damage caused to any property of the <i>Council</i> as a consequence of the doing of anything to which the consent relates.	\$21,900	No	T600
<b>Tree Damage Security Deposit -</b> Making good any damage caused to any public tree as a consequence of the doing of anything to which the consent relates.	\$3,700	No	T600
<b>Infrastructure Works Bond -</b> Remedying any defects in any public work that arise within 6 months after the work is completed as a consequence of carrying out the development.	\$8,400	No	T600

<b>DEVELOPMENT LEVY</b> under Woollahra Section 94A Development Contributions Plan 2005 This plan may be inspected at Woollahra Council or downloaded from our website <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> .			
Development Levy	\$9,940 + Index Amount	Yes, quarterly	T94
Security Administration Fee	\$163	No	T16
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	\$44,103 <b>Plus any relevant indexed amounts and long service levy</b>		

### **Building & Construction Industry Long Service Payment**

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

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

#### **How must the payments be made?**

Payments must be made by:

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

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

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

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

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

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

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

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

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

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

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

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

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

Standard Condition: C5

**C.3 Tree Management Details**

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

- a. trees to be numbered in accordance with these conditions,
- b. shaded green where required to be protected and retained,
- c. shaded yellow where required to be transplanted,
- d. shaded blue where required to be pruned,
- e. shaded red where authorised to be removed and,
- f. references to applicable tree management plan, arborists report, transplant method statement or bush regeneration management plan.

Standard Condition: C30

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

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

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

Specific works include:

- a. Full width vehicular crossings having a width of <#.m> in accordance with Council's standard drawing RF2.

#### Glenview Lane

- Construction of a new concrete driveway crossing, 7m wide and in accordance with Council's Standard Drawing RF2. Footpath and boundary levels must match existing.
- Reconstruction of the concrete kerb and gutter.

#### Glenview Street

- Removal of the existing driveway crossing and kerb layback fronting the site on Glenview Street.
- Reinstatement of concrete footpath in the region of the redundant driveway crossing.
- Reinstatement of kerb and gutter. Levels in the invert of the gutter must match existing. Kerb and gutter material must be consistent with adjoining sections (eg where adjoining is sandstone kerb, sandstone kerb must be constructed).

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

All public domain works must comply with Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" dated January 2003 unless expressly provided otherwise by these conditions. This specification can be downloaded from [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au).

**Note:** To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

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

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

Standard Condition: C13

## **C.5 Utility Services Generally**

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

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

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

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

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

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

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

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

Standard Condition: C20

## C.6 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.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 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 Dilapidation Reports for existing buildings**

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

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

- 39 Glenview Street
- 45 Glenview Street

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

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

Standard Condition: D4

## **D.3 Adjoining buildings founded on loose foundation materials**

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

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

Standard Condition: D6

## **D.4 Construction Management Plan – Approval & Implementation**

Excavation at the rear of the site may impose on pedestrian and vehicle traffic within Glenview Lane. To ensure the works do not impose on the amenity of this lane, the applicant must prepare and submit a construction management plan for the approval of Council’s Development Engineer before the commencement of demolition, excavation or construction works.

**A construction methodology statement must be provided. The statement must:-**

- Provide a schedule of works specifically with respect to the excavation at the rear of the site.
- Indicate how machinery is to be located and stored upon the site.
- Indicate how spoil is to be removed from the site.

**A plan of the site must be provided. The plan must show:**

- extent of excavation at the rear of the site
- storage of spoil, excavation machinery and construction materials
- any site sheds,
- all pedestrian and traffic control devices proposed,
- any areas of Council property on which it is proposed to install a Works Zone (Construction Zone),
- structures to be erected such as hoardings, scaffolding or shoring,

The Plan must make provision for all materials, plant, etc. to be stored within the development site at all times during construction. Standing of concrete pumps on Council property will need approval on each occasion.

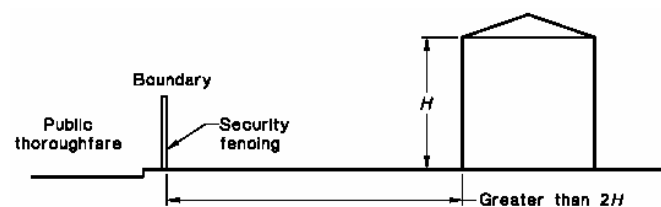
It is noted that there is parking permitted opposite the site in Glenview Lane. The standing of construction machinery, vehicles adjoining the site in this lane for extended periods will require a Works Zone to be established within the region of on street parking so as to permit through traffic.

**Note:** A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.

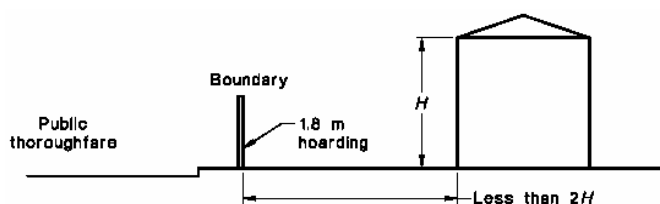
**Note:** Separate approval is required for any proposed site crane, hoarding, work zone, road opening, road closure or the standing of any plant (crane or pump or the like) in any public place.  
Standard Condition: D9

## D.5 Security Fencing, Hoarding and Overhead Protection

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



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

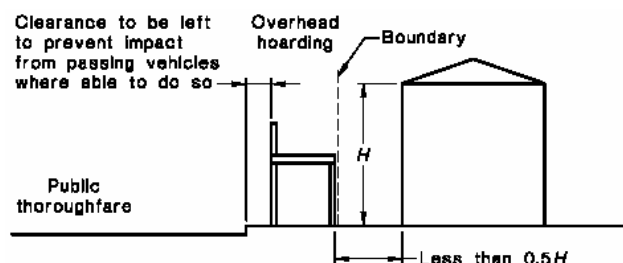


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either

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

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

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



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

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

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

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

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

## D.6 Site Signs

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

“Erection of signs

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

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

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

## D.7 Toilet Facilities

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

Each toilet provided:

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

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

In this condition:

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

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

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

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

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

## D.8 Erosion and Sediment Controls – Installation

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

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

Where there is any conflict The Blue Book takes precedence.

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

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

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

**Note:** Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution” **Warning**, irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.  
Standard Condition: D14

**D.9 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)**

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

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

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

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

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

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

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

#### **D.10 Notification of Home Building Act 1989 requirements**

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

Standard Condition: D17

#### **D.11 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 Critical Stage Inspections**

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

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

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

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

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

Standard Condition: E5

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

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

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

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

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

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

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

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

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

Standard Condition: E6

#### **E.5 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.6 Tree Preservation**

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

## **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:

Council Reference No:	Species	Location	Dimension (Metres)
1	<i>Jacaranda mimosifolia</i> Jacaranda	Front – Council verge west	7 x 7
2	<i>Koelreuteria paniculata</i> Golden Rain Tree	Front – Council verge east	6 x 7
7	<i>Magnolia grandiflora</i> Bull Bay Magnolia	Rear – North east corner	10 x 8

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

- b) The following trees may be removed:

Council Reference No:	Species	Location	Dimension (Metres)
3	<i>Lophostemon confertus</i> ‘Variegata’ Variegated Brush Box	Front – South west corner	7 x 4
4	<i>Gordonia axillaris</i> Fried Egg Plant	Side – West boundary (TPO permit 395/2006)	5 x 3
5	<i>Betula pendula</i> Silver Birch	Rear – West boundary (TPO permit 395/2006)	8 x 3
6	<i>Syagrus romanzoffianum</i> Cocos Palm	Rear – West boundary	10 x 3
8	<i>Citharexylum spinosum</i> Fiddlewood Tree	Rear – North east corner	15 x 9
9	<i>Eucalyptus sideroxylon</i> Red Ironbark	Rear – North west corner	15 x 8

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

## E.8 Compliance with Construction Management Plan

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

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

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

## E.9 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;

**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.10 Support of adjoining land and buildings

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

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

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

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

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

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

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

## E.11 Erosion and Sediment Controls – Maintenance

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

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

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



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

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

## **E.12 Disposal of site water during construction**

The principal contractor or owner builder must ensure:

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

**Note:** This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.  
Standard Condition: E17

## **E.13 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.14 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works Road works and work within the Road and Footway**

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

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

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

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

#### **E.15 Replacement of Sandstone Kerb or Gutter**

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

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

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

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

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

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

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

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

### **E.17 Prohibition of burning**

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

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

### **E.18 Dust Mitigation**

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

This generally requires:

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

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

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

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

## **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 Commissioning and Certification of Systems and Works**

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

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

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

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

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

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

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

No condition.

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

### **H.1 Alterations to regulatory parking signs**

The alterations of the site’s vehicle access warrant changes to the onstreet parking regulatory signs adjacent to the site. These changes include (but are not limited to), removal or relocation of existing regulatory signs on Glenview Street and Lane due to the altered vehicle access and installation of a “No Parking” sign(s) opposite the site in Glenview Lane.

The applicant must liaise with Council's Traffic Engineer regarding the alteration to on street parking conditions required as a result of development works. Any such alterations to on street parking conditions warranted by the works are subject to assessment and approval by the Woollahra Traffic Committee. All costs associated with alteration to the onstreet parking signs must be borne by the applicant. Works required by this condition must be completed to the satisfaction of Council's Traffic Engineer prior to the issue of the Final Occupation Certificate.

## **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

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

### **I.1 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.2 Outdoor lighting – Residential

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

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

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

## J. Miscellaneous Conditions

No condition.

## 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 Appeal**

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

**Thomass Wong, Senior Assessment Officer** on (02) 9391 7158

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.9 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.10 Compliance with the Building Code of Australia**

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

Part 3.3.4 - Weatherproofing of masonry

Part 3.4.1 - Sub floor ventilation

Part 3.7 - Fire safety

Part 3.7.1 Fire separation

Part 3.7.2 Smoke alarms

Part 3.7.3 Heating appliances

Part 3.8 - Health and amenity

Part 3.8.1 Wet areas

Part 3.8.3 Facilities

Part 3.8.4 Light

Part 3.8.5 Ventilation

Part 3.8.6 Sound insulation

Part 3.9 - Safe movement and access

Part 3.9.1 Stair construction

Part 3.9.2 Balustrades

Part 3.9.3 Pool access

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

Standard Condition: K20 (Autotext KK20)

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## 9.3 Urban Planning Committee

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### Items with Recommendations from the Committee Meeting of Monday 25 June 2007 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** **25 Hamilton Street Rose Bay – Consideration as a Heritage Item**  
**Author:** Jodi Ayre - Strategic Heritage Officer  
Chris Bluett – Manager Strategic Planning  
**File No:** 1080.G [W] 1080.G [BH]  
**Reason for Report:** To respond to the Council decision made on 13 December 2004, deferring the consideration of the heritage significance of 25 Hamilton Street, Rose Bay, to allow for further information.

**Recommendation:**

- A. THAT 25 Hamilton Street Rose Bay not be listed as a heritage item.
- B. THAT the heritage inventory sheet for 25 Hamilton Street Rose Bay be amended to include the Council's decision.

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**Item No:** R2 Recommendation to Council  
**Subject:** **Rezoning at 4A Nelson Street, Woollahra**  
**Author:** John Davies – Strategic Planner  
**File No:** 326.4a  
**Reason for Report:** To respond to a request to amend Woollahra Local Environmental Plan 1995

**Recommendation**

That consideration of the matter be deferred and a site inspection be conducted at 8.00am on Monday 2 July 2007 and that a Council Heritage Officer be present at the site inspection.

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## 9.4 Community & Environment Committee

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### Items with Recommendations from the Committee Meeting of Monday 25 June 2007 Submitted to the Council for Determination

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**Note:** As a Committee Quorum (4 Councillors) was not present, all items with a recommendation from the Councillors present at the meeting are referred to Council for determination.

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**Item No:** R1 Recommended to Committee  
**Subject:** Confirmation of Minutes of Meeting held on 12 June 2007  
**Author:** Les Windle – Manager Governance  
**File No:** See Council Minutes  
**Reason for Report:** The Minutes of the Meeting of 12 JUNE 2007 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.

**Recommendation:**

That the Minutes of the Community and Environment Committee Meeting of 12 JUNE 2007 be taken as read and confirmed.

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**Item No:** R2 Recommended to Committee  
**Subject:** Extraordinary Meeting  
Woollahra Traffic Committee Minutes - 25 June 2007  
**Author:** Warwick Hatton, Director – Technical Services  
**File No:** See Traffic Committee Minutes  
**Reason for Report:** For the Committee to consider the recommendations of the Woollahra Traffic Committee (Extraordinary Meeting 5A/07).

**Recommendation:**

1. THAT the Recommendations contained in Part 2 of the minutes of the Woollahra Traffic Committee's Extraordinary Meeting No.5A/07 held on Thursday 7 June and Friday 8 June, 2007, Item Y1-5 be adopted.
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**Item No:** Y1 Traffic Matters on Local Roads – Recommendation to C&E for Consideration

**Subject:** **Parking Restrictions Changes**

**Author:** Frank Rotta – Traffic Engineer

**File No:** (Refer to Table 1)

**Reason for Report:** Various parking restriction changes throughout the Woollahra Council area.

**Item Y1-5: Greenoaks Avenue, Darling Point – Extension of Parking Restrictions**

**Recommendation:**

1. That the '15 Minute Parking 8.00am-9.30am, 2.15pm-3.15pm Mon-Fri' zone on the southern side of Greenoaks Avenue in front of St Marks Pre-school be extended 5 metres in an easterly direction and the unbroken centreline be altered accordingly as shown in Annexure Y1-5b.
2. THAT Recommendation 1 above be subject to confirmation that St Marks Pre-school are aware of the change and have no objections.

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**Item No:** R3 Recommended to Committee

**Subject:** **Public Art Advisory Committee Minutes**

**Author:** Jo Jansyn, Cultural Development Coordinator

**File No:** 1160.G Public Art

**Reason for Report:** To table the minutes of the Public Art Advisory Committee Meeting

**Recommended:**

1. That the minutes of the Public Art Advisory Committee meeting held on Friday 25 May 2007 be noted.
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## Notices of Motion

**Item No:** 1  
**From:** Councillors Comino, Huxley & Shapiro  
**Date:** 2 July 2007  
**File No:** 900.G

That the Report on the review of the Double Bay Carparking strategy and Council's current Section 94 Plan be brought forward as a Matter of Urgency, having regard to:

- the recent Court proceedings involving the Fivex Pty Ltd development at corner New South Head Road and Knox Street, Double Bay;
- other current redevelopment applications in the Double Bay Commercial Centre;
- issues involving Council's Double Bay carparking levy under the current Section 94 Plan; and,
- previous Notices of Motion relevant to these issues.

The report to canvass:

- (a) a review of the rates applied in the levy in lieu of carparking provision in Double Bay,
- (b) recommendations for the channeling of section 94 funds raised in Double Bay Commercial Centre both past and present into necessary infrastructure works (not limited to carparking provision); and,
- (c) a review of Council's Carparking Development Control Plan (with particular emphasis on Double Bay).

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**Item No:** 2  
**From:** Councillor's Rundle and Dawson  
**Date:** 4 July 2007  
**File No:** 900.G

That an urgent report be brought to the Corporate & Works Committee advising as to the provision of a golf cart type service in the Cross Street car park during the period that the lift is decommissioned with the view of transporting patrons to and from their cars with advice as to the recoverability of such cost from the Council's insurers or otherwise.

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**Item No:** 3  
**From:** Councillor Rundle  
**Date:** 4 July 2007  
**File No:** 900.G

That advice be obtained from a panel solicitor as to the appropriateness of providing an advice to residents whose property is the subject of a dilapidation report in a Development Consent as to the ramifications and utility of such a condition.

**Item No:** 12  
**Subject:** Questions Without Notice  
**Author:** Gary James, General Manager  
**File No:** 467.G/Q01  
**Reason for Report:** To provide a response to Questions without Notice from Council Meeting of 25 June 2007 and for Councillors to ask Questions without Notice in accordance with Council's Code of Meeting Practice.

**Recommendation:**

That the responses to previous Questions without Notice be noted.

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**Background:**

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

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

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

Responses to Councillors Questions Without Notice on 25 June 2007 are as follows:

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**Councillor Comino asking:**

When can we expect a reply to my Question without Notice detailing aspects of the Eastern Region Strategy as discussed in your meeting with Minister Sartor last month.

**Mayor in response:**

I have some notes that Mr Coker sent me, so I will make a note and forward that to you.

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**Councillor Comino asking:**

To the Director Community Services

Following an earlier question regarding the withdrawal of adult dental services from July 1. Are you aware Sydney Dental Hospital will cease to provide dental care to residents of Woollahra and adjoining Municipalities except in cases of traumatic injury?

**Director – Community Services in response:**

Yes, I am, and we have actually received a reply back saying it has been noted. I will forward that reply onto you.

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**Councillor Comino asking:**

In respect of my question to the Director – Community Services, did you receive any reply to the letters you wrote to the Premier, Minister of Health and Shadow Minister of Health and on the subject?

**Director – Community Services in response:**

Yes we did.

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**Councillor Rundle asking:**

On walking to site inspection last Thursday I noticed that along Kambala and Victoria Roads, Bellevue Hill that the refuse bins had promotional material for the NSW Police on what appeared to be a A4 sheet of paper – the Police promo occupied one half the other half was an advertisement for NRMA Home Insurance, or a dump bin service or an eco service. I noticed today walking along Edgecliff Road that the refuse bins just had the Police promotional material on what appeared to be a half A4 sheet.

Has Council approved this promotional activity and if so does Council receive a fee?

Alternatively, if permission has not been sought is it within Council's domain to request the cessation of such practice or alternative receive a fee for such activity?

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**General Manager in response:**

The first promotion referred to was the one that involved the NRMA and Dial-a-Dump and Eco Service and was commenced without any reference or permission from us. We made contact with them and they have actually ceased that promotion. We are doing our level best to remove those stickers from the bins. It is not an easy job. The one that actually involves Crime Stoppers with the Council logo is done by permission and in conjunction with the Council.

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**Councillor Shapiro asking:**

While the Cross Street Car Park lift is out of order, please can we set aside several more bays for cars with prams on the lower ground level? From personal experience, I assure you it is very awkward and also unsafe to wheel a pram up and down the car ramps?

**Acting Director Technical Services in response:**

Premier Parking have advised that the pram bay works have been scheduled for Sunday 8 July 2007.

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**Councillor Shapiro asking:**

How many car parking spaces have been lost in Bellevue Road as a result of the traffic calming works? A recent article in the Wentworth Courier quotes a local shopkeeper as saying up to 6 spaces have been lost?

**Traffic Engineer in response:**

It was always envisaged that these works would result in a net loss of one parking space. This is currently being reviewed as it appears that with the adjustment of existing parking spaces and the shortening of existing "No Stopping" restrictions on the approach to the Riddell Street pedestrian crossing, scope may exist for an additional space to be created thereby resulting in no parking spaces being lost. This will be referred to the Traffic Committee for consideration.

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**Councillor Shapiro asking:**

Last year residents who used the ferry to McKell Park complained about a lack of lighting and also the dangers of tripping on the gravel path following any rain. I was told by the Manager – Open Space that money had been set aside in the budget and lighting would be installed before the winter months, as part of a plan for the Park.

I was amazed to learn that nothing has been done and in these recent rains it was fortunate there were no incidents. Please can you investigate when the plan will be implemented as it seems to be a dangerous situation?

**Manager Public Open Space in response:**

The issues at McKell Park relate to the adequacy of the existing lights and the pathway surface. The existing lights which were installed in the early 1980s were programmed to be updated in the last quarter of last financial year utilising Section 94A funding. The new lights will provide increased illumination of the pathway than currently exists. However, earlier this year we were required to reduce expenditure of Section 94A funds as a result of income levels being less than that originally estimated. Sufficient funding to complete this project has since been received and last month we made arrangements for these new lights to be installed in August.

In regards to the eroded decorative, 'heritage style' gravel pathway; since the storm event we have undertaken repairs to the path. We have also identified the need to provide a more permanent pathway treatment in keeping with the heritage character of the park and improve access to Canonbury Cottage. We will develop plans to provide an improved pathway for consideration in next years capital works program.

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**Councillor Sinclair King asking:**

When will the lifts be repaired in the Cross Street Car Park and why the delay for the repairs?

**Acting Director Technical Services in response:**

An order has been placed with Schindler. The parts have been ordered because the lift has been very extensively damaged, the motor and all the electrical components have had to be replaced and they are being manufactured as we speak by Schindler in Switzerland. The earliest they can do is 18 weeks. It is almost a brand new lift that we will be getting.

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**The Mayor, Councillor Huxley stated:**

At the Double Bay Liaison meeting last Friday the issue of the lift came up. We spoke about the fact that we were not going to be ripping that building down. It is going to be there for quite some time, so long as it is structurally sound but there was probably going to be a good case to actually put a new lift in and to refurbish the lift well which everyone was complaining about, the smell of urine from people who, obviously for what ever they do, but they are quite disgusting and there was a huge 2 inches of water in the base of part of the lift which people could not even step into the stair well. It was really disgusting. What I think is we really need to ask Warwick Hatton or have the General Manager actually look at the costings for a new lift and to refurbish that, seeing as we are not going to be pulling it down in the shorter term.

**General Manager in response:**

I am happy to look at that, I was not aware that there was something like an 18 week delay, I just need to understand if it is something like an 80% return from insurance and given the balance maybe funded probably out of Section 94, I would be prepared to have a look at that to see if we could expedite a new lift. Until I have the full costings I cannot give you a definite answer.

**Councillor Cullen asking:**

The temporary fencing along New South Head Road (Rose Bay near the promenade) has led to dangerous pedestrian behaviour. People seem to be walking along the road into oncoming traffic. Is there any way to improve this situation or to improve the signage before someone is seriously hurt?

**Project Manager Civil Works in response:**

The pedestrian management plan was designed so that it removed all pedestrians away from the construction, by directing them to use the footpath on the south side of New South Head Road at the signalised pedestrian crossings at Cranbrook Road and O'Sullivan Road Rose Bay.

A traffic and pedestrian management plan was prepared and approved by the RTA. Unfortunately some pedestrians disregarded the signs to use footpath on other side of the road and decided to walk on the road. The site was inspected and as a result of observations the contractor made some changes to the layout of the signs and added some signs to make it clear that pedestrians were to use the footpath on the other side of the road and not to walk on the road. The Contractor also engaged a safety auditor who visited the site and considered that the measures in place were satisfactory. Observation of the pedestrian movement this week indicates that pedestrians are following directions. This is probably as a result of improved signage and that pedestrians are now familiar with the construction activity and the pedestrian detour in place. The Contractor and the Superintendent will be continually monitoring the situation.

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**Councillor Cullen asking:**

To the Mayor

Could you please set up a meeting with the Management of NSW Ferries to discuss timetable concerns with our Municipality? These were outlined in my earlier Notice of Motion and we have struggled to get any action on this matter?

**Manager Public Infrastrure response:**

A meeting will be arranged with NSW Ferries.

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**Councillor Shoebridge asking:**

What if any consideration has been given to the potential spread of the noxious weed Caulerpox Toxifolia in the Rose Bay Marina proposal noting in particular that the risk of spread of this noxious weed was a principal reason for the Minister for Planning not approving a similar scale marina at Careel Bay, Avalon?

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**Executive Planner in response:**

The EIS at 3.3.12 under 'Aquatic Ecology' includes the following comments; 'There is also a very sparse and patchy occurrence of the pest algae species *Caulerpa taxifolia*.' (p.64); 'The listed pest algae species *Caulerpa taxifolia* was found in the west Rose Bay study area in relatively low density and patchy distribution during the 2005 and 2006 field surveys (refer Appendix L). Whilst this species remains listed as a pest species, recent research indicates that the presence of *C. taxifolia* probably does not have negative impacts on native seagrass beds (Glasby (2004)).' (p.66); Appendix L of the EIS is a report on Marine Ecological Aspects, prepared by Marine Pollution Research P/L, October 2006. Its Executive Summary also includes the following comments; 'With regard to the algae *Caulerpa taxifolia*, assessment of the possible interactions of the proposal with this species leads to the conclusion that the project is unlikely to have any significant impact on the current distribution of *Caulerpa taxifolia* in west Rose Bay, and that construction activities can be managed so as not to result in any significant increase in the fragmentation and transport of the existing plants from the locality. Further, the net decrease in swing moorings within the study area will decrease the rate of plant fragmentation attributed to mooring chain movement.' (p.v); The referral comment from Council's Environmental Protection Coordinator, Rebecca Peacock, dated 15/3/07 includes; '6. *Caulerpa taxifolia* is present in the redevelopment area. I am concerned about the potential to fragment and spread this aggressive aquatic weed species. If the proposed development is approved, ensure that the location of *caulerpa* is clearly mapped in relation to construction works and that safeguards are in place to ensure that this weed is not disturbed further and spread to other areas in Rose Bay'; Ms Peacock also recommended that Council engage a marine ecological expert to review the reports and conclusions made in the ecological study included in the EIS. (This was the subject of a report to the Urban Planning Committee on 26/3/07 - Council's subsequent resolution of 16/4/07 included: B. if it is considered necessary, based on the response from the applicant for additional information on marine biological impacts and proposed environmental management provisions, the Council commission reports from a marine ecological expert and a contamination expert); We have commissioned The Ecology Lab, aquatic environmental consultants, to carry out the recommended review, including a review of the assertions regarding *Caulerpa taxifolia*. Their report is expected in early July and it will form an important part of our assessment of the impacts of the proposed development on the marine ecology; The potential spread of *Caulerpa taxifolia* is being carefully considered in the assessment of the DA.

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Gary James  
General Manager

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**Annexures:** Nil