

Application Assessment Panel

Agenda: *Application Assessment Panel*

Date: *Tuesday 11 March 2008*

Time: *3.00pm*

Part: *Four - Additional Item*

Item: *D11*

Outline of Meeting Protocol & Procedure:

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

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

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

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

Meeting Agenda

Part Four

Item	Subject	Pages
D11	DA145/2007 – 17 Windsor Street, Paddington – New rear extension and internal alterations – 16/3/07 *See Recommendation Page 569	549-628

DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D11
FILE No.	DA 145/2007/1
PROPERTY DETAILS	17 Windsor Street PADDINGTON 2021
	Lot & DP No.: LOT: 15 DP: 667499
	Side of Street: Southern
	Site Area (m²): 126.5
	Zoning: Residential 2(a)
PROPOSAL	New rear extension & internal alterations.
TYPE OF CONSENT:	Local Development
APPLICANT:	Mr K McInerney
OWNER:	Mr W J Wilson & Ms D L Hay
DATE LODGED:	16/03/2007 28/06/2007 (Amended Plans) 01/11/2007 (Replacement Application)
AUTHOR:	Mr M D'Alessio

1. RECOMMENDATION PRECIS

It is recommended that development consent be granted in respect to the application.

2. PROPOSAL PRECIS

The proposal is for alterations and additions to a two storey terrace, the terrace forms a part of a row grouping of 3 terraces and the rear wing forms a pair with the adjoining No. 15 Windsor Street.

3. LOCALITY PLAN



⊘ The Paddington Society

4. DESCRIPTION OF PROPOSAL

The proposal is for the internal modifications to an existing terrace and for construction of new rear additions and a garage. The proposal includes the following:-

Ground Floor

- Internal modifications and demolition of the main internal cross wall, chimney breasts and fireplaces to main terrace.
- Demolition of existing ground floor portion of the rear wing and extension of a new rear wing form to match the rear setback of the adjoining no. 15 Windsor Street.
- New garage sited to Paddington Lane with skillion roof form, sloping to lane.
- Air conditioning condensers to be sited inside proposed garage.
- Proposed planting of a transplanted mature frangipani tree to the rear courtyard.
- Remove front door security screen doors and bars.

First Floor

- Internal modifications and demolition of chimney breast and fireplaces to the main terrace.
- Lower the roof height of rear of main terrace to accommodate a new floor level for proposed attic additions.
- Construct new staircase to proposed attic level.
- Create new internal door opening to rear wing infill existing.
- Restore existing front balcony detailing.

- New bathroom to main terrace
- Flat roof form void of new ground floor rear additions sited at the first floor level.

Attic Level

- Conversion of roof space to new attic level, lowering of ceiling height to rear of the main terrace.
- New rear facing dormer window and skylight.

Amended Plans 28 June 2007

The applicant submitted amended plans in response to and partially addressing issues raised, the revised plans further detailed:-

Ground Floor

- Lowering and changing of the roof form of the garage to Paddington lane to be skillon and sloping to the internal courtyard of the site not the rear lane as originally proposed.

First Floor

- Lowering of flat roof form void 100mm in height above the new ground floor rear additions sited at the first floor level from RL 54.7 to RL 54.6.

Replacement Application 1 November 2007

The applicant submitted a replacement application revising the application to:-

Ground Floor

- Internal modifications and demolition of main internal cross wall, chimney breasts and fireplaces to the main terrace.
- Demolition of existing ground floor portion of rear wing and extension of rear wing form to match the rear setback of the adjoining no. 15 Windsor Street.
- New garage with loft addition sited to Paddington Lane.
- Air conditioning condensers to be sited inside proposed garage.
- Proposed planting of transplanted mature frangipani tree to rear courtyard.
- Remove front door security screen doors and bars.

First Floor

- Internal modifications and demolition of chimney breasts and fireplaces to main terrace.
- Lower ceiling height of rear room to main terrace to accommodate a new floor level for the proposed attic additions.
- Construction of new staircase to the proposed attic level.
- Create new internal door opening to rear wing infill existing.
- Restore existing front balcony detailing.
- New bathroom to main terrace.
- Side sloping roof void form of new ground floor rear additions sited at the first floor level.
- Loft addition level to new garage sited to Paddington Lane.

Attic Level

- Conversion of roof space to new attic level, lowering of ceiling height to rear of main terrace.

- New rear facing dormer window and skylight.

5. SUMMARY

Reasons for report	Issues	Submissions
The DA does not satisfy the criteria for determination under staff delegation.	<ul style="list-style-type: none"> • Objections • Adverse Heritage impacts 	7 submissions were received. <ul style="list-style-type: none"> • 3 submissions for the original application. • 4 submissions for the replacement application.

6. ESTIMATED COST OF WORKS

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

The applicant's estimated cost of the proposed development at \$303 000 has been checked using our adopted practice and is considered to be accurate.

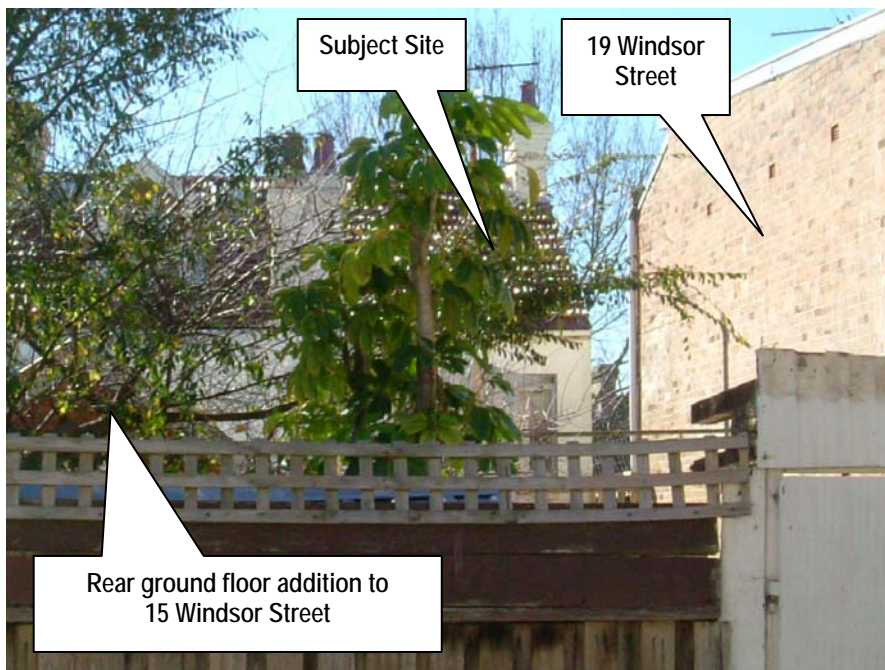
7. DESCRIPTION OF SITE OF LOCALITY



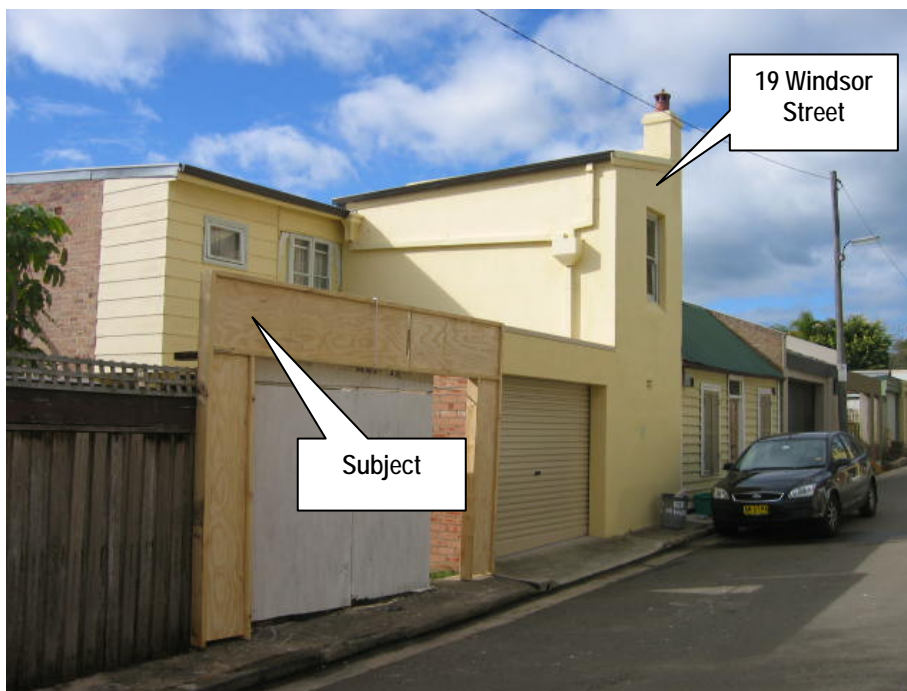
THE SITE AND LOCALITY	
Physical features	The subject site is located on the southern side of Windsor Street between the intersection to the west of Cascade Street and to the east of Elizabeth Street. The site has a rectangular shape and a total area of 126.5m ² . The site has a width of approximately 4.09m to the front Windsor Street boundary and 4.115m to the rear Paddington lane and a length of 3198m.
Topography	The site falls approximately 2.25 metres from the rear south eastern boundary (RL 51) to the front north western boundary (RL 48.75) of the site.
Existing buildings and structures	The site contains a two storey terrace, the terrace forms a part of a row grouping of 3 terraces and the rear wing forms a pair with the adjoining No. 15 Windsor Street. The rear courtyard behind the rear wing of the terrace contains ground level outbuildings and sheds sited to the western side boundary
Environment	The site is surrounded by residential terrace buildings. The adjoining no. 19 Windsor Street contains a dwelling with an uncharacteristic large setback incorporating a first floor wear wing built to the rear Paddington Lane boundary.



View 1: View of rear elevation of subject sites main terrace and rear wing visible from the rear public domain of Paddington Lane.



View 2: View of rear elevation of subject sites and side elevation of no. 19 Windsor Street from the rear public domain of Paddington Lane.



View 3: Eastern view of rear Paddington Lane.



View 4: Western view of rear Paddington Lane.

8. PROPERTY HISTORY

PROPERTY HISTORY	
Current use	Residential
Previous relevant applications	None
Pre-DA	N/A
Applicant advised of unsatisfactory Development Proposal 27 July 2007	The applicant was advised in writing that a preliminary assessment of the amended proposal still raised a number of issues and was considered to be unsatisfactory in the following respect to non compliances with the Paddington Development Control Plan:

	<p>The design, form, scale of the new rear additions.</p> <p><i>The subject site contains a two storey Victorian terrace house which is one of a group. The group consists of 3 terrace houses from Number 13 to 17 Windsor Street the rear first floor elevations are visible from the public domain of Paddington Lane.</i></p> <p><i>The proposed reconstruction of the rear wing is non-compliant with the following relevant objectives Guidelines and Controls of the Paddington HCADCP:</i></p> <p><i>Part 5.1.3 Rear Elevations and Yards</i></p> <p><i>Objectives</i></p> <p><i>O2 To promote rear alterations and additions of sympathetic design and construction.</i></p> <p><i>O3 To enable sympathetic contemporary design and use of contemporary materials in appropriate circumstances</i></p> <p><i>Guidelines and Controls</i></p> <p><i>G3 Alterations and additions to a building which comprises one of a group must be designed with regard to the overall balance of the group in terms of height, alignment, form, scale, breezeway pattern and architectural character.</i></p> <p><i>G4 The roof of an extension or the new roof for an existing component must be of a skillion or gable form appropriate to the building type.</i></p> <p><i>G5 Alterations and additions at the rear of buildings:</i></p> <ul style="list-style-type: none"><i>• must not dominate or otherwise adversely compete with the form, height, proportions and the scale of that part of the building which is to be retained;</i><i>• must not reproduce or match a building which in terms of its height, bulk, scale and detailing is inappropriate to the heritage character of the area;</i><i>• must be designed to minimise or avoid an adverse impact on neighbouring properties in terms of overlooking, loss of sunlight and ventilation;</i><i>• must not extend beyond the established building lines in a group or row of buildings.</i> <p><i>G8 Building boundary to boundary on the ground floor level is permissible provided that:</i></p> <ul style="list-style-type: none"><i>• the development does not adversely affect the privacy, ventilation, light and the amenity of the adjoining properties; and</i><i>• the development does not disrupt an existing significant pattern of a group of buildings.</i> <p><i>Part 5.1.4 Roofs</i></p> <p><i>Objectives</i></p> <p><i>O1 To retain the character of the original roofscape of Paddington.</i></p> <p><i>O2 To promote rear alterations and additions of sympathetic design and construction.</i></p> <p><i>Guidelines</i></p> <p><i>G4 In areas of high visibility, the roofscape must be maintained.</i></p> <p><i>G7 Roof forms are to reflect appropriate traditional roof forms.</i></p> <p><i>The height and design of the new roof form of the rear addition is not appropriate to the breezeway pattern and architectural character of the subject group.</i></p> <p><i>The height of the roof form of the rear additions will result in the substantial infill of the breezeway at the rear elevation on the first floor level.</i></p>
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	<p><i>The design and height of the roof form of the rear additions will dominate and adversely compete with the form, height, proportions and the scale of the existing rear wing and that of the main terrace which is to be retained.</i></p> <p><i>Control 5.1.4.G7 states that roof forms are to reflect appropriate traditional roof forms. The proposed roof form of the rear additions as a ground floor secondary roof form does not comply with this control and should be lowered so as not to infill the breezeway at the rear elevation on the first floor level.</i></p> <p><i>You are therefore requested to amend your application to resolve these concerns.</i></p>
Amended plans/ Replacement Application	28/06/2007 (Amended Plans) 01/11/2007 (Replacement Application)
Land & Environment Court appeal	N/A

9. REFERRALS

9.1 The following table contains particulars of internal referrals.

INTERNAL REFERRALS		
Referral Officer	Comment	Annexure
Heritage Officer	<p><i>The proposal in its current form will result in a highly intrusive rear addition that will have an adverse impact on the subject terrace, its group and the surrounding Conservation Area.</i></p> <p><i>The applicant will need to delete reference to the proposed second floor rear addition to maintain the character of the original rear façade as it exist within the subject sites group of terraces failing to do this the application in its current form is recommended for refusal.</i></p> <p>(Refer to conditions C1)</p>	2
Development Engineer	<p><i>Council's Development Engineer has determined that the proposal satisfies Technical Services concerns, subject to the following conditions. Accordingly, the following conditions are recommended.</i></p>	3
Landscaping Officer	<p><i>Council's Tree and Landscape Officer has determined that the development proposal is satisfactory in terms of tree preservation and landscaping, subject to compliance with the following Conditions of Consent.</i></p>	4

ENVIRONMENTAL ASSESSMENT UNDER S.79C

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

10. STATE/REGIONAL INSTRUMENTS AND LEGISLATION

10.1 SEPPs

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. A20579 committing to environmental sustainability measures.

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

State Environmental Planning Policy No. 55 – Remediation of Land

Under clause 7 (1) (a) of State Environmental Planning Policy No. 55 – Remediation of Land, consideration has been given as to whether the land is contaminated.

The site has been in continuous residential use since circa 1875 and is unlikely to be contaminated.

10.2 REPs

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The land is within the Sydney Harbour catchment but is outside the Foreshores and Waterways Area and therefore there are no specific matters for consideration in relation to this DA.

10.3 Section 94 contribution

The *Woollahra Section 94A Development Contributions Plan 2005* authorises a condition of development consent or a complying development certificate to require the payment of a fixed levy.

If the subject development application were to be approved a levy under Section 94A of \$3030.00 would be applicable based on 1% of the estimated cost of development of \$303,000.

A contribution is not required under Councils Section 94 Plan.

10.4 Other legislation

None applicable to this application.

11. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 1995

11.1 Aims and objectives of WLEP 1995 and zone

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

11.2 Statutory compliance table

Site Area (126.5m ²)	Existing	Proposed	Control	Complies
Overall Height (metres)	10.4m	9.2m	9.5m	Yes

11.3 Site area requirements

Not applicable to this application.

11.4 Height

The proposed height of the attic additions are below the maximum permissible statutory height control of 9.5m prescribed in the WLEP 1995.

11.5 Floor space ratio

Not applicable to this application.

11.6 FSBL

Not applicable to this application.

11.7 Other special clauses/development standards

Clause 18 Excavation: The proposed excavation is acceptable in terms of Clause 18.

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

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

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

Clauses 26-33 Heritage and conservation area provisions: The subject site is within the Paddington heritage conservation area. Subject to condition the proposed development is considered acceptable and in accordance with the relevant clauses under the WLEP 1995.

12. DRAFT AMENDMENTS TO STATUTORY CONTROLS

Not applicable to this application.

13. DEVELOPMENT CONTROL PLANS

13.1 Compliance table Paddington Development Control Plan

Site Area (126.5m ²)	Existing	Proposed	Control	Complies
Height of Rear Addition to Two Storey Building (metres)	Below Gutter Line of Main Roof Over Existing Building	Above Gutter Line of Main Roof Over Existing Building	Below Gutter Line of Main Roof Over Existing Building	NO Refer to con C1. (b)
Width of Permissible Dormer Window (metres)	NA	1.5m	1.37m being 1/3 Width of Roof	NO Refer to con C1. (j)
Height of Dormer Window (millimetres)	NA	300mm Below Main Roof Ridge	300mm Below Main Roof Ridge	YES
Private Open Space (m ²)	36.98m ²	19.5m ²	1/6 of Site Area or 21.08m ²	NO Refer to con C1. (c)
Soft Landscaping at Ground Level (%) or (m ²)	2.94m ²	13m ²	50% of Required Private Open Space or 10.54m ²	YES

Site Area (126.5m ²)	Existing	Proposed	Control	Complies
15 Windsor Street Paddington Solar Access to Habitable Rooms, Private Open Space (Hours in mid winter)	2 Hours Between 9am and 3pm in Midwinter	2 Hours Between 9am and 3pm in Midwinter	2 Hours Between 9am and 3pm in Midwinter	YES
17 Windsor Street Paddington Solar Access to Habitable Rooms, Private Open Space (Hours in mid winter)	2 Hours Between 9am and 3pm in Midwinter	Less than 2 Hours Between 9am and 3pm in Midwinter (additional impact)	2 Hours Between 9am and 3pm in Midwinter	NO
19 Windsor Street Paddington Solar Access to Habitable Rooms, Private Open Space (Hours in mid winter)	Less than 2 Hours Between 9am and 3pm in Midwinter	Less than 2 Hours Between 9am and 3pm in Midwinter (Minimal additional impact)	2 Hours Between 9am and 3pm in Midwinter	NO Refer to con C1. (g)
Laneway Garages with Roof Lofts (metres)				
• Wall Height (Where Rear Lane Frontage is Less Than 6.0m)	NA	3.8 m to 3.9m	3.9m	YES
• Side Pillar Width to Gable Form	NA	0.47m	0.35m	YES

Street frontages

The following proposed works to the street frontage are in accordance with guideline and control G1 of part 5.1.1 of the PDCP and are limited to;

- a. Restoration of roof, parapet and freestanding party wall
- b. The reversal of an unsympathetic screen door addition to the first floor balcony and security grills and screen door to the ground floor.
- c. Restoration of balcony timber structure and boards

The proposed additions and raising of the front decorative cast iron lacework by an additional 80mm will adversely alter this original detail. Best practice in relation to upgrading Victorian period balcony detail in accordance with the Building Code of Australia is to add an additional rail above the original balustrade. **Refer to Condition C1. (a)**

Rear elevations and yards

The rear elevation of the subject sites terrace forms part of a row grouping of 3 terraces the rear wing forming a pair (matched window openings and skillion roof form) with the adjoining No. 15 Windsor Street. The group's site topography sloping from the rear to the front has resulted in public views of the rear first floor elevations of the row group being partially eroded by the height of the rear fencing, landscaping and ground floor additions to No. 15 Windsor Street.

Distinguishable groups containing shared rear wing forms are a repeated characteristic of terracing and an important character element of the PHCA. Alterations and additions to the rear of terraces need to retain the legibility of the shared characteristics, so as to allow for the continued understanding of individual and terrace row groupings.

To the eastern side of the site No. 19 Windsor Street contains a large 2 storey expanse of blank face brick walling supporting a shallow pitched roof along the entire length of the rear courtyard of the subject site that is highly visible from the rear Paddington Lane.

The relevant objectives for rear elevations and yards contained within part 5.1.3 of the PDCP:

O2 To promote rear alterations and additions of sympathetic design and construction.

O3 To enable sympathetic contemporary design and use of contemporary materials in appropriate circumstances.

The proposed rear additions contain 3 variable roof forms including a steeply pitched skillion adjoining No. 19 Windsor Street, which exceeds the height of the gutter line of the subject sites two storey main terrace.

It is noted that this form has been set back from the main terrace to reduce its visibility from Windsor Street and the proposed loft additions to the garage will significantly block views of this roof form from the rear Paddington lane.

Although substantially blocked by landscaping to the rear courtyard of no. 15 Windsor Street western oblique angled views from Paddington Lane still exist of the proposed rear additions. From this angle the roof form as detailed would employ large areas of glass to the southern elevation and appear as an intrusive element.

The height and slope of the steeply pitched skillion roof form above the rear single storey ground floor family room is uncharacteristically steep for skillion form in the PHCA.

Similarly the flat roof form ground floor kitchen/dining rooms is uncharacteristic in the PHCA.

G2 The height of an alteration and addition to the rear of a double storey or higher building must be below the gutter line of the main roof of the existing building.

G3 Alterations and additions to a building which comprises one of a group must be designed with regard to the overall balance of the group in terms of height, alignment, form, scale, breezeway pattern and architectural character.

G4 The roof of an extension or the new roof for an existing component must be of a skillion or gable form appropriate to the building type.

G5 Alterations and additions at the rear of buildings:

- must not dominate or otherwise adversely compete with the form, height, proportions and the scale of that part of the building which is to be retained;*
- must retain traditional solid to void ratios on elevations visible from the public domain;*
- must not employ large areas of glass on upper levels;*

The rear gable roof form existing to the rear of No. 15 Windsor Street is a more characteristic form associated with pavilion structures such to that which has been proposed in the HCA.

The applicant has detailed in the submitted Statement of Environmental effects that the proposed roof form is skillion; however the steep pitch and height of the additions to the rear of a traditional terrace house will appear as uncharacteristic.

The forms and detail does not sufficiently relate to traditional rear roof forms and details to be considered sympathetic contemporary design.

Accordingly as part of the recommendations of this report a condition has been attached requiring that the roof forms above the rear single storey ground floor family and kitchen/dining rooms must match that of the gable form contained to the rear additions of no. 15 Windsor Street Paddington.

Refer to Condition C1. (b)

Roofs

Refer to Rear elevations and yards, subject to Condition C1. (b), the rear additions roof forms are appropriate to the terrace row and will retain the existing character of the group's roofscape.

The intent of Condition C1. (b), is to prevent an uncharacteristic roof form to the rear additions.

Site coverage, setbacks and levels

The proposed works will not alter the established rear building alignment; the rear ground floor building line of the proposed additions is in line with that of nos. 9, 11 and that adjoining at no. 15 Windsor Street. It is noted however both nos. 13 & 15 Windsor Street, the other terraces in the group do not incorporate covered parking spaces.

The proposal will retain a portion of the former breezeway as a light well, however the proposed level of Private Open Space is 1.58m² less than the 1/6 numerical site requirement specified in Guideline and Control G1.

The rear building alignment is consistent with the established alignments; however site coverage is disproportionate with the remainder of the row grouping.

Refer to Condition C1. (c) requiring that the design be modified to incorporate an additional 1.58m² private open space to ensure compliance with Guideline and Controls G3 contained within part 5.1.3 Rear Elevations and Yards of the PDCP so that the Site coverage is not to be disproportional to the adjoining properties.

Landscaping and private open space

The sites rear courtyard is currently concreted so that the proposed development incorporating a rear garden area will positively increase the sites soft landscaping at ground level from an existing 2.94m² to 13m² which will be compliant compliance with Guideline and Control G4 contained within part 5.1.6 of the PDCP.

Building height, bulk and scale

The proposal will not add to the main visible building height, bulk and scale of the existing terrace building.

The proposed rear additions will result in a minor additional 0.1m² additional overshadowing to the rear courtyard of no. 15 Windsor Street. The cause of the overshadowing being the north eastern point of the rear elevation matches the scale of adjoining development and the area of additional overshadowing will not result in a adverse impact sufficient to warrant modification to is design.

Acoustic and visual privacy

The proposal has detailed timber batten shutters that open to a maximum of 90 degrees to the northern elevation of the garage loft level. The size of this opening at 2.9m², measuring 1.5m wide and 1.9m high is excessive and presents significant opportunities for amenity impacts to adjoining residents and would not comply with the underlying relevant objective 02 of part 5.1.8 Acoustic and Visual Privacy.

It is recommended that the rear opening be reduced to a maximum width of 1m to ensure that it does not result in additionally opportunities for overlooking.

Refer to Condition C1. (d)

The proposed south facing loft level window to Paddington Lane is detailed proportionate to other surrounding lane facing windows and does not represent a significant additional source for overlooking.

The ground floor plans identify 2x air conditioning condensers located internally to the rear wall of the proposed garaging, no further details have been provided to allow for a full assessment of this part of the application, accordingly no approval for proposed air conditioning has been included in the recommendations of this report.

Refer to Condition C1. (i)

Dormer windows and skylights

The existing group currently contains a rear facing dormer window rear sky lights to the rear main roof form of no. 15 Windsor Street.

The revised and replacement application plans have further refined the detail of the rear facing dormer window. The detailed width of 1.5m is greater then the 1/3 required in guideline G5 of Part 5.2.1 Dormer Windows and Skylights of the PDCP. Accordingly the width of the rear facing dormer window including eaves overhang is recommended to be reduced so as not to exceed 1.37m total in width.

Refer to Condition C1. (j)

The skylight detailed to the rear main roof plane has been positioned to the least visible part of the roof: the existing corner, however it will remain visible from the rear public domain, the visibility of the rear dormer is non – compliant with Guideline and Control G9 of Part 5.2.1 of the PDCP.

The visibility of the skylight will not have a significant impact on the existing roofscape of the subject group; another is visible to the roof of no. 15 Windsor Street.

It is noted that proposed skylight is to allow for natural light to enter into the proposed attic level bathroom which otherwise has no external openings to allow for light access, the proposed skylight is supported as reasonable development within the subject row.

The design of the skylight is not vertically proportioned. To further minimize the impact of the skylight in accordance with Objective 03 of part 5.2.1 of the PDCP, it is recommended that the proportions of the skylight be modified and conditioned to be rotated 90 degrees so as to be vertically proportioned.

Refer to Condition C1. (e)

Chimneys

The proposal has detailed the demolition of internal chimney breasts and fireplaces to the main terrace, to ensure support of the existing external main chimney in accordance with objective 01 of Part 5.2.2 Chimneys of the PDCP. A condition of consent has been recommended requiring the applicant to detail the method of support of the chimney prior to the issue of a construction certificate.

Refer to Condition C1. (f)

Parking, access and servicing facilities

Councils Development engineer has recommended a condition requiring that garage door must have a minimum internal width of 3.5 metres so as to accommodate the B85 swept turning path as specified within AS 2890.1.

Refer to Condition C1. (h)

Resulting from this condition the side pillar widths of the garage structure cannot exceed 310mm. The applicant had detailed a compliant 470mm width. The PDCP specifies a minimum of 350mm width pillars to gable formed laneway garages with roof lofts. The extent of non-compliance would not be highly legible and would allow an existing off street car parking space to achieve compliance with AS 2890.1.

Controls limiting the height, bulk and scale of garages with loft structures within Paddington are detailed in Table 5.2.6 On-Site Vehicle Parking, Garages, Carports, Driveway Access & Servicing Facilities of the PDCP.

Table 5.2.6 of the PDCP allows greater height to garage lofts on block widths exceeding 6m; the maximum eaves height for laneway garages with roof lofts is 3.9 metres for sites with block widths less than 6m and 4.5m for sites greater than 6m. This control ensures that garages with studio lofts on narrow width sites are generally 0.6 metres lower than those on wider width sites.

The subject sites block width to the rear Paddington Lane is 4.15m. As such the control for eaves height on the subject site is 3.9m. The revised plans have detailed boundary to boundary walling and not detailed any lower part of the garage roof to overhang the side boundary walls, so that the proposal does not include traditional eaves. The applicant has detailed a dimension to the spring height of the roof to be 3.9 so that the side boundary walls supporting the guttering detailed within the roof plans would be located lower than 3.9m.

The shadow diagrams identify at the 12pm winter solstice minor additional overshadowing resulting from the proposed north eastern corner of the loft level to adjoining private open space/car parking space of no. 19 Windsor Street.

The repetition of the proposed 5.6m garage level length to the loft level is not supported and it is recommended to be conditioned to be reduced by 1m not to exceed 4.6m in length so as to minimize/restrict overshadowing to adjoining private open space/car parking space of no. 19 Windsor Street.

Additionally this condition will have the effect of reducing the garage and loft level northern elevations side wall.

Refer to Condition C1. (g)

Materials and details

The application has detailed a large extent of glazed walling and louvered openings to the rear additions, the intent of Condition C1. (b), is to prevent approving an uncharacteristic roof form to the rear addition and will also result in reducing the extent of the proposed glazing.

Gardens and significant trees

The applicant has proposed to transplant a mature frangipani tree to rear courtyard, currently the rear of the site is devoid of landscaping.

Building types – Multi – Storey Terrace Houses

Subject to conditions C1. (a) – (j) the proposal will have no adverse impact to the existing terrace house on the subject site or its distinctive shared group characteristics.

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

The proposal will not affect the number of on-site car parking spaces to the subject site or off street car parking spaces within Paddington lane as such the proposal is considered acceptable with regard to the objectives of the DCP.

13.3 Woollahra Access DCP

The Access DCP applies to all classes of buildings and includes alterations and additions.

This proposal is for rear alterations and additions and the construction of a garage and loft to the rear of the subject. The Access DCP encourages, rather than requires, visitor access for older people or people with a disability for Class 1 buildings. Details of Access have not been provided in this proposal, however, this is considered acceptable under the provisions of the DCP.

13.4 Other DCPs, codes and policies

The recommendation is for the accommodation of a single car space opening, in accordance with the Paddington DCP. The driveway design is required to comply with Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" dated January 2003

Please refer to condition No. C.4 Road and Public Domain Works – Council approval required of the recommendation section of this report.

14. APPLICABLE REGULATIONS

Clause 92 of the EP&A Regulation 2000 requires Council to consider Australian Standard AS2601-1991: the demolition of structures. It also requires compliance with this standard by condition of consent. The proposal will comply by condition.

15. THE LIKELY IMPACTS OF THE PROPOSAL

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

16. THE SUITABILITY OF THE SITE

Acid Sulfate Soil Area

The site is within a Class 5 Acid Sulfate Soil area identified in the Planning NSW Acid Sulfate Soil Risk Map. Classification 5 prescribes that works within 500mm of adjacent Class 1, 2, 3 or 4 land which are likely to lower the watertable below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land require preliminary testing to be conducted to confirm the presence of potential or actual acid sulfate soils in accordance with the Acid Sulfate Soil manual 1998 Assessment Guidelines issued by DUAP, now Dept. of Infrastructure Planning and Natural Resources.

The proposal is not located within vicinity to any other class of Acid Sulfate Soil.

17. SUBMISSIONS

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

- The Paddington Society PO Box 99 Paddington
- Mr Jonathan Falk, 15 Windsor Street Paddington
- Mr Lindsay & Mrs Olive Smith, 19 Windsor Street Paddington

The objections raised the following issues:

- **The western wall of 19 Windsor Street has wall vents to Lounge room, dining room and under floor area that will be built against by the proposed development.**

Comment: Boundary to boundary development is permissible within the PDCP and the extent of the proposed site coverage is proportional to pattern of development of adjoining properties subject to condition. Refer to Rear elevations and yards of part 13.1 of the report, and Condition C1. (b) & (c).

- **The height of the proposed rear garage roof height and pitch should be lowered to minimize overshadowing to adjoining private open space/car parking space of 15 & 19 Windsor Street.**

Comment: The current replacement application is for a loft addition and this issue is assessed within Parking, access and servicing facilities of part 13.1 of the report.

- **The existing western rear side fencing should be retained.**

Comment: The proposal does not seek approval to remove the existing western side rear fencing.

- **Concern that any proposed excavation will cause structural damage to adjoining properties**

Comment: The application has not detailed any major excavation, also refer to Condition E9.

- **Existing Ground floor fireplaces within the main terrace should be retained.**

Comment: Internally the main terrace is in poor condition with extensive water penetration damage, original ornate detailing is only modest and where it remains is typically in poor condition. The main fireplace surrounds are small simple timber surrounds likely original but of little significance.

- **Removal of chimney breast to eastern side wall will structural impact on retention of external chimney stack.**

Comment: Details for support of the existing external chimney stacks can be submitted as part of the requirements for a construction certificate. Refer to recommended Condition C1. (f) of this report.

- **Proposed rear facing dormer does not comply with PDCP and is different in appearance to no. 15 Windsor Street.**

Comment: The rear facing dormer has been revised to comply with the PDCP.

- **Insufficient private Open Space - Non compliance with G1 of Part 5.1.6 of the PDCP.**

Comment: Refer to Landscaping and private open space of part 13.1 of the report and Condition C1. (c)

- **The proposed rear additions flat roof for the extension with a high glazed clerestory section against No 15's high wall, giving a sort of stepped effect is an inappropriate roof form visible from the rear - Paddington Lane;**

- **Non compliance with G1 of Part 5.1.3 Rear Elevations and Yards of the PDCP.**
- **Non compliance with G7 of Part 5.1.4 Roofs of the PDCP.**

Comment: The rear additions flat roof form has been revised please refer to Rear elevations and yards of part 13.1 of the report and Condition C1. (b).

- **The proposed single car garage is unnecessarily wider than it needs to be.**

Comment: The subject replacement application is for a garage with loft addition please refer to Parking, access and servicing facilities of part 13.1 of the report.

The applicant submitted a replacement application on the 1 November 2007.

The replacement application (as defined by Clause 90 of the *Environmental Planning and Assessment Regulation 2000*) was renotified under clause 5.1 of the DCP because, having considered clause 9 of the DCP, the replacement application is substantially the same development.

Five submissions were received from:

- The Paddington Society PO Box 99 Paddington
- Mr Jonathan Falk, 15 Windsor Street Paddington (2 submissions)
- Mr Lindsay & Mrs Olive Smith, 19 Windsor Street Paddington
- Peter Garling St James Hall Level 5 169 Phillip Street Sydney

The objections raised the following issues:

- **The scale and height of proposal loft structure over the garage will have an adverse impact on the amenity of the neighbors with overlooking and overshadowing. Non-compliance with PDCP 5.2.6 – G12**

Comment: Please refer to section, Parking, access and servicing facilities, Acoustic and visual privacy and recommended condition of consent C. 1 (d) & (g) of this Report.

- **Proposal will block western wall of no. 19 Windsor Street air vents to lounge room, dining room and under floor areas. Non-compliance with PDCP 5.1.3 G3 & G8**

Comment: Boundary to boundary development is permissible within the PDCP and the extent of the proposed site coverage is proportional to pattern of development of adjoining properties subject to condition. Refer to Rear elevations and yards of part 13.1 of the report, and Condition C1. (b) & (c).

- **Non-compliance with PDCP private open space 5.1.6 G1**

Comment: Refer to Part 13.1 Landscaping and private open space and recommended condition of consent C. 1 (c) of this Report.

- **Garage access impeded by proposed stairwell**

Comment: Refer to recommended condition of consent C. 1 (k) of this Report.

- **Excavations near footings of 15 & 19 Windsor Street**

Comment: The application has not detailed any major excavation. Refer to recommended Condition E9 of this report.

- **Non traditional Solid to void ratios visible on upper levels from public domain of Windsor Street and Paddington Lane from oblique angles**
- **Non-compliance with PDCP Roofs 5.1.4 G7**
- **Non traditional roof form of rear extension**

Comment: Please refer to section, Roofs of part 13.1 and recommended condition of consent C. 1 (b) of this Report.

- **Overlooking from loft window into rear of no. 44 Paddington Street Paddington**
- **Loss of visual privacy cause by loft level opening into internal courtyard**

Comment: Please refer to section, Parking, access and servicing facilities, Acoustic and visual privacy and recommended condition of consent C. 1 (d) of this Report.

18. CONCLUSION - THE PUBLIC INTEREST

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

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

THAT the Council, as the consent authority, grant development consent to Development Application No. 145/2007 for new rear extension & internal alterations on land at 17 Windsor 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, piling, 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)
DA01 issue C	Site Analysis	Kiernan Mcinerney Architect	10.10.07
DA02 issue C	Ground floor Plan	Kiernan Mcinerney Architect	10.10.07
DA03 issue C	First floor Plan	Kiernan Mcinerney Architect	10.10.07
DA04 issue C	Attic Plan	Kiernan Mcinerney Architect	10.10.07
DA05 issue C	Section 1	Kiernan Mcinerney Architect	10.10.07
DA06 issue C	Sections 2 & 3	Kiernan Mcinerney Architect	10.10.07
DA07 issue C	Sections 4 & 5	Kiernan Mcinerney Architect	10.10.07
DA11 issue C	Elevation	Kiernan Mcinerney Architect	10.10.07
DA12 issue C	Elevation	Kiernan Mcinerney Architect	10.10.07

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

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

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

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

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

A.5 Prescribed Conditions

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

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

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

B.1 Construction Certificate required prior to any demolition

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

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

Standard Condition: B1

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

C.1 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. In accordance with guideline G1 of Part 5.1.1 Street frontages of the PDCP, no approval is granted to raising or altering the existing position and height of the first floor decorative cast iron balcony panels. An additional timber balustrade rail can be installed above the iron top rail.
- b. In accordance with guideline G2, G3, G4, & G5 Rear Elevations and Yards of Part 5.1.3 of the PDCP, the roof forms above the rear single storey ground floor family and kitchen/dining rooms is to be redesigned in order to match the height (RL 54.21) and gable form contained to the rear additions of no. 15 Windsor Street Paddington.
- c. In accordance with guideline G4 of Part 5.1.6 Landscaping and Private Open Space of the PDCP a minimum of 1.58m² additional private open space is to be provided to the rear of the site at ground level.
- d. In accordance with objectives 01 & 02 Acoustic and Visual Privacy of Part 5.1.8 of the PDCP the maximum width of the garages loft left northern elevation opening is not to exceed 1m in width.
- e. In accordance with objectives 01 of Part 5.2.1 Dormer Windows and Skylights of the PDCP the skylight to the rear main terrace roof must be rotated 90 degrees so it is vertically proportioned.
- f. In accordance with objective 01 of Part 5.2.2 Chimneys of the PDCP the applicant is to engage a qualified structural engineer to design and detail the method of structural support, allowing for the retention of the existing external main chimney.
- g. In accordance with guideline G12 of Part 5.2.6 On-Site Vehicle Parking, Garages, Carports, Driveway Access & Servicing Facilities of the PDCP the length of the garage loft level must be reduced by 1m and not exceed a length of 4.6m measured from the Paddington lane rear boundary.
- h. The garage door must have a minimum internal width of 3.5 metres so as to accommodate the B85 swept turning path as specified within AS 2890.1.
- i. No approval is granted as part of this approval to air conditioning, all reference to air conditioning to the subject site is to be deleted.

- j. In accordance with guideline G5 of Part 5.2.1 Dormer Windows and Skylights of the PDCP the width of the rear facing dormer window including eaves overhang must be reduced so as not to exceed 1.37m total in width.
- k. The stairs from the garage to loft level are to comply with AS/NZS 2890.1:2004: *Parking Facilities - Off-Street Car Parking* in order to maintain a minimum of 2.2m un-obstruction.

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

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

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

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

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

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

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

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986			
Long Service Levy Use Calculator: http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm	Contact LSL Corporation or use their online calculator	No	
SECURITY under section 80A(6) of the Environmental Planning and Assessment Act 1979			
Property Damage Security Deposit - Making good any damage caused to any property of the <i>Council</i> as a consequence of the doing of anything to which the consent relates.	\$8000	No	T600
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2005 This plan may be inspected at Woollahra Council or downloaded from our website www.woollahra.nsw.gov.au .			
Development Levy	\$3030 + Index Amount	Yes, quarterly	T94

INSPECTION FEES under section 608 of the Local Government Act 1993			
Public Road and Footpath Infrastructure Inspection Fee	\$363.25	No	T99
Security Administration Fee	\$163	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$11556.25 Plus any relevant indexed amounts and long service levy		

Building & Construction Industry Long Service Payment

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

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

How must the payments be made?

Payments must be made by:

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

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

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

How will the section 94A levy be indexed?

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

Do you need HELP indexing the levy?

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

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

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

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

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

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

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

Standard Condition: C5

C.3 BASIX commitments

The *applicant* must submit to the *Certifying Authority BASIX Certificate No.A8483* with any application for a *Construction Certificate*.

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

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

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

Standard Condition: C7

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

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

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

Specific works include:

- a) Removal of the existing sandstone kerb. The sandstone blocks remain the property of Woollahra Council and must be returned to Council's depot. Please refer to the condition "Replacement of Sandstone Kerb or Gutter".
- b) Construction of a new concrete driveway crossover, 3.50 metres wide and fronting the new garage entry. The design and construction of the driveway crossover must generally be in accordance with AS 2890.1.

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.

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

Note: When a large *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

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

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

Standard Condition: C13

C.5 Erosion and Sediment Management Plan – Submission & Approval

The *principal contractor* or *owner builder* must submit to the *Certifying Authority* an erosion and sediment management plan complying with:

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

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

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

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

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

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

C.6 Structural Adequacy of Existing Supporting Structures

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

Note: This condition is imposed to ensure that the existing structure structural is able to support the additional loads proposed.
Standard Condition: C35

C.7 Professional Engineering Details

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

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

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

C.8 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.9 Stormwater discharge to existing Stormwater Drainage System (Clause 25(2) WLEP 1995)

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

- a. the location of the existing *Stormwater Drainage System* including all pipes, inspection openings, surface drains, pits and their discharge location,
- b. the state of repair of the existing *Stormwater Drainage System*,

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

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

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

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

Note: Stormwater Drainage Systems must not discharge to any Sewer System. It is illegal to connect stormwater pipes and drains to the sewerage system as this can overload the system and cause sewage overflows. See:
<http://www.sydneywater.com.au/Publications/Factsheets/SewerfixLookingAfterYourSewerPipes.pdf>

Note: Woollahra Municipal Council's *Specification for Roadworks, Drainage and Miscellaneous Works* dated January 2003 and Council's draft Development Control Plan Stormwater Drainage Management (draft version 1, public exhibition copy dated 23 August 2004) can be downloaded from Council's website: www.woollahra.nsw.gov.au
Standard Condition: C49

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

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

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

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

This condition does not apply:

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

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

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

Standard Condition: D1

D.2 Adjoining buildings founded on loose foundation materials

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

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

Standard Condition: D6

D.3 Erosion and Sediment Controls – Installation

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

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

Where there is any conflict The Blue Book takes precedence.

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

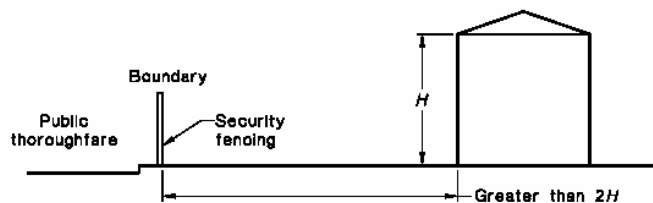
Note: The “Do it Right On Site, Soil and Water Management for the Construction Industry” publications can be down loaded free of charge from www.woollahra.nsw.gov.au.

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

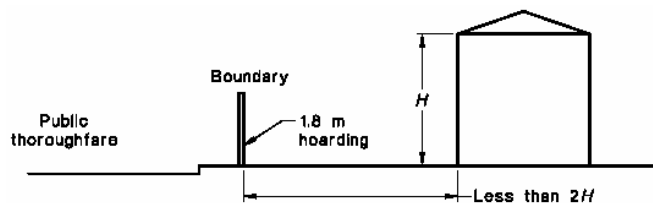
Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”
Warning, irrespective of this condition any person occupying the site may be subject to proceedings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

D.4 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.

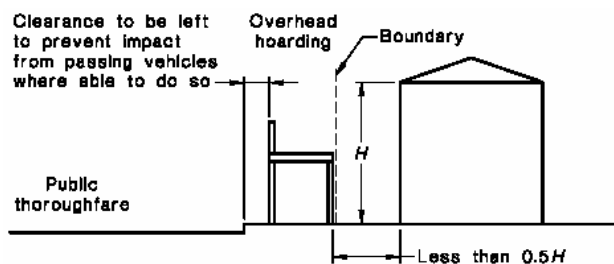


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either

- 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/oheadprotstructs.htm>

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

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

D.5 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.6 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.7 Erosion and Sediment Controls – Installation

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

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

Where there is any conflict The Blue Book takes precedence.

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

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

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

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

D.8 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)

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

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

- iv. given at least 2 days' notice to the council of the person's intention to commence the erection of the building.

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

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

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

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

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

D.9 Notification of Home Building Act 1989 requirements

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

Standard Condition: D17

E. Conditions which must be satisfied during any development work

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

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

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

This condition does not apply:

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

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

Standard Condition: E1

E.2 Compliance with Australian Standard for Demolition

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

Standard Condition: E2

E.3 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
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.

General Protection Requirements:

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

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

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

E.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>Ulmus parvifolia</i> Chinese Weeping Elm	Standing on 15 Windsor St – Rear	8 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 pruned in accordance with Australian Standard AS 4373 – 1996 “Pruning of Amenity Trees” and Workcover NSW Code of Practice Amenity Tree Industry, 1998 to the minimum extent necessary to provide clearance to the new development:

Council Reference No:	Species	Location	Approved pruning specification (extent of pruning)
1	<i>Ulmus parvifolia</i> Chinese Weeping Elm	Standing on 15 Windsor St – Rear	Prune as required to clear new building alignment at No17

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

E.8 Maintenance of Environmental Controls

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

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

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

E.9 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.10 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.11 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.12 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.13 Dust Mitigation

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

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.

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

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

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

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

Standard Condition: E23

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 down loaded free of charge from Council’s website 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

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 relevant conditions

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

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No. A12417.

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

Standard Condition: H7

H.2 Removal of Ancillary Works and Structures

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

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

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

Standard Condition: H12

H.3 Road Works (including footpaths)

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

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

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

Standard Condition: H13

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

I.1 Maintenance of BASIX commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. A8483

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

I.2 Removal of Graffiti

All graffiti must be removed or obliterated from buildings and fences within 72 hours.

Reason: This condition has been imposed to ensure the quality of our urban environment is not degraded by the accumulations of graffiti.

Note: Procedures for working with graffiti are contained in a special training program available from the Master Painters Australia NSW Association Inc. See: <http://www.masterpainters.com.au/>
Standard Condition: I26

I.3 Outdoor lighting – Residential

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

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

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

I.4 Noise Control

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

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

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

Useful links:

Community Justice Centres—free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).

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

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

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

Association of Australian Acoustical Consultants—professional society of noise related professionals
(www.aaac.org.au).

Department of Gaming and Racing - (www.dgr.nsw.gov.au).
Standard Condition: 150

J. Miscellaneous Conditions

No relevant conditions.

K. Advisings

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

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

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

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

Warnings as to potential maximum penalties

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

Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order. This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

Note: The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the *Crimes (Sentencing Procedure) Act* 1999, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. You can obtain further information from the following web sites:
<http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the Attorney General's www.agd.nsw.gov.au.
Standard Advising: K1

K.2 Dial before you dig



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

When you contact Dial Before You Dig, you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.
Standard Advising: K2

K.3 Builders Licences and Owner Builders Permits

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

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

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

Standard Condition: K5

K.4 Building Standards - Guide to Standards and Tolerances

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

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

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

The Guide can be down loaded from:

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

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

Standard Condition: K6

K.5 Workcover requirements

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

Note: Further information can be obtained from Workcover NSW's website:
<http://www.workcover.nsw.gov.au/Industry/Construction/default.htm> or through their head office:
Location: Workcover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address:
WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.
Standard Condition: K7

K.6 Asbestos Removal, Repair or Disturbance

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

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

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

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

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

K.7 Lead Paint

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

Industrial paints may contain lead. Lead is used in some specialised sign-writing and artist paints, and road marking paints, and anti-corrosive paints. Lead was a major ingredient in commercial and residential paints from the late 1800s to 1970. Most Australian commercial buildings and residential homes built before 1970 contain lead paint. These paints were used both inside and outside buildings. Lead hazards - Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained.

If runoff contains lead particles it must be contained. Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

Standard Advising: K9

K.8 Dividing Fences

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

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

Standard Advising: K10

K.9 Appeal

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

Mr G Fotis, Team Leader on (02) 9391 7089.

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

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

Standard Condition: K14

K.10 Release of Security

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

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

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

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

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

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

K.11 Recycling of Demolition and Building Material

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

K.12 Owner Builders

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

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

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

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

K.14 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

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)

Mr M D'Alessio
ASSESSMENT OFFICER

Mr George Fotis
TEAM LEADER

ANNEXURES

1. Photomontage, Plans, Elevations & Sections
2. Referral response - Heritage
3. Referral response - Technical Services
4. Referral response – Trees and Landscaping

ANNEXURE 2

1 May 2007

REFERRAL RESPONSE - HERITAGE

FILE NO: DA 145/2007/1

ADDRESS: 17 Windsor Street PADDINGTON 2021

PROPOSAL: New rear extension & internal alterations.

FROM: Mario D'Alessio

TO: Ms L Northridge

I refer to the following documents received for this report:

Drawing set by Kieran mcinerney architect numbered DA01 -05 dated 9 March 2007
Heritage Assessment Statement of heritage Impact prepared by Kieran mcinerney architect dated March 2007.

Heritage Status:

Heritage item no
Conservation area Paddington Heritage Conservation Area
Vicinity of heritage item no
Potential heritage item no

Significance of property to the conservation area

The subject site contains a Victorian period Filigree terrace typical of the development pattern within the key period of the development of the Conservation Area.

The terrace forms a part of a row grouping of 3 terraces and the rear wing forms a pair with the adjoining No. 15 Windsor Street. The pair share matching rear skillon roofed formed 2 storey wings with matching openings patterns that when viewed from the public domain form a gable, this is a characteristic form within the conservation area.

Assessment of heritage impact

The proposal includes minor restoration of front facade detailing including and reconstruction and heightening of front first floor cast iron balastrading and removal of existing intrusive front screen doors.

The proposed additions to the rear will not require the removal of any significant fabric the extent of demolition is restricted to later and secondary ground floor service additions.

The proposed new second floor additions to the rear will adversely impact on the existing the shared two storey rear wing and breezeway pattern of the group. The height of the additions will be visible from the rear Paddington lane and will result in an intrusive element that blocks public views of the existing significant rear façade detail contained within the group.

The proposed additions will substantially alter the rear appearance of the subject group of terraces.

The proposed form and position of the additions blocking the traditional breezeway pattern is uncharacteristic of the pattern of development in the conservation area and would result in a highly visible and intrusive built form.

Variance with Paddington DCP controls:

5.1.3 REAR ELEVATIONS AND YARDS

Objective

O1 To retain the forms and character of traditional rear facades particularly where they exist in unaltered groups.

Guidelines and Controls

G5 Alterations and additions at the rear of buildings:

- *must not dominate or otherwise adversely compete with the form, height, proportions and the scale of that part of the building which is to be retained;*
- *must not reproduce or match a building which in terms of its height, bulk, scale and detailing is inappropriate to the heritage character of the area;*
- *must retain traditional solid to void ratios on elevations visible from the public domain;*
- *must not employ large areas of glass on upper levels;*
- *must not extend beyond the established building lines in a group or row of buildings.*

G7 Extensions are not permitted on rear upper storeys where double storey rear skillion forms exist in an unaltered group. In such cases alterations are to occur within the existing building envelope.

Recommendation

The proposal in its current form will result in a highly intrusive rear addition that will have an adverse impact on the subject terrace, its group and the surrounding Conservation Area.

The applicant will need to delete reference to the proposed second floor rear addition to maintain the character of the original rear façade as it exist within the subject sites group of terraces failing to do this the application in its current form is recommended for refusal.

Mario D'Alessio
Heritage Officer

ANNEXURE 3

2 May 2007

REFERRAL RESPONSE – TECH. SERVICES

FILE NO: DA 145/2007/1
ADDRESS: 17 Windsor Street PADDINGTON 2021
PROPOSAL: New rear extension & internal alterations.
FROM: Daniel Pearse - Development Engineer
TO: Mr M D'Alessio

I refer to the following documents received for this report:

1. Architectural plans by Kiernan Mcinerney Architect (Refer Dwgs DA01 to DA16 dated March 2007)
2. Survey plan dated 26th October 2006
3. Statement of Environmental Effects

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

Site Drainage comments

The SEE has nominated stormwater is to be drained to Windsor Street and Paddington Lane under a gravity discharge. Whilst no drainage details have been provided, the proposed drainage system is feasible in concept and does not warrant great concern. Conditions requiring the design and inspection of the drainage system to be in accordance with Councils requirements are advised.

Flooding & Overland Flow comments

The site is not likely to be affected by flooding or overland flows. No further comments are required.

Impacts on Council Infrastructure comments

A new concrete driveway crossover must be constructed fronting the proposed garage. This work has been addressed by condition of consent.

The existing kerb and gutter is constructed of sandstone blockwork and must be returned to Council. A condition requiring this has been applied by condition of consent.

Vehicle Access & Accommodation comments

A site inspection noted that there are garages located opposite the site and as such, it is not possible for a vehicle to park on street opposite the garage thereby preventing entry/ exit from the garage.

Vehicle access to the proposed space has been analysed using the B85 turning template as specified within AS 2890.1. To comply with this, the vehicle entrance must have a minimum internal width of 3.5 metres. This would require the proposed vehicle entrance to be widened an additional 300mm which appears feasible and therefore is advised to be addressed by a condition of the development consent.

Otherwise the remaining aspects related to vehicle access and accommodation comply with AS 2890.1 and are satisfactory for a single car space.

Geotechnical, Hydrogeological and/or Structural comments

There is no major excavation proposed that would warrant further concern.

RECOMMENDATION

Council's Development Engineer has determined that the proposal satisfies Technical Services concerns, subject to the following conditions. Accordingly, the following conditions are recommended.

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Conditions of Consents

Please note that the standard conditions of consent are generally modified by the Technical Services Division to suit a particular development application

L. General Conditions *(please insert the auto text below)*

A8 Ancillary Aspect of the Development (Repair Damaged Infrastructure)

M. Conditions which must be satisfied prior to the demolition of any building or construction *(please insert the auto text below)*

Nil

N. Conditions which must be satisfied prior to the issue of any construction certificate *(please insert the auto text below)*

C4 Modification of details of the development (s80A(1)(g) of the Act)

Insert;

a. the garage door having a minimum internal width of 3.5 metres so as to accommodate the B85 swept turning path as specified within AS 2890.1.

C5 Payment of Security, Levies and Fees

a) Property Damage Security Deposit \$8,000

C13 Road and Public Domain Works – Council Approval Required

Insert;

- Removal of the existing sandstone kerb. The sandstone blocks remain the property of Woollahra Council and must be returned to Councils depot. Please refer to the condition “Replacement of Sandstone Kerb or Gutter”.
- Construction of a new concrete driveway crossover, 3.50 metres wide and fronting the new garage entry. The design and construction of the driveway crossover must generally be in accordance with AS 2890.1.

C35 Structural Adequacy of Existing Supporting Structures

C36 Professional Engineering Details

C45 Bicycle, Car and Commercial Parking Details

C49 Stormwater discharge to Existing Stormwater Drainage System

O. Conditions which must be satisfied prior to the commencement of any development work *(please insert the auto text below)*

Nil

P. Conditions which must be satisfied during any development work *(please insert the auto text below)*

E7 Maintenance of Vehicular and Pedestrian Safety and Access

E24 Compliance with Council’s Specification for Roadworks, Drainage and Miscellaneous Road Works

E25 Replacement of Sandstone Kerb or Gutter

Q. Conditions which must be satisfied prior to any occupation or use of the building

Nil

R. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

Nil

S. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate *(please insert the auto text below)*

H13 Road Works (including footpaths)

T. Conditions which must be satisfied during the ongoing use of development *(please insert the auto text below)*

Nil

U. Miscellaneous Conditions

Nil

V. Advisings

Nil

Regards,

Daniel Pearse

ANNEXURE 4

4 May 2007

REFERRAL RESPONSE – TREES & LANDSCAPING

Application Lodged Post 1st November 2006

FILE NO: DA 145/2007/1
ADDRESS: 17 Windsor Street PADDINGTON 2021
PROPOSAL: New rear extension & internal alterations.
FROM: David Grey - Tree & Landscape Officer
TO: Mr M D'Alessio

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by Kieran Mcinerney, dated 22 November 2006
- Survey Plan No.9404, drafted by G K Wilson & Associates, dated 26 October 2006
- Architectural Plan No.DA 01 to DA 15, drawn by Keiran Mcinerney, dated December 2006.

A site inspection was carried out on the following day: 1 May 2007.

RECOMMENDATIONS

Council's Tree and Landscape Officer has determined that the development proposal is satisfactory in terms of tree preservation and landscaping, subject to compliance with the following Conditions of Consent.

W. General Conditions

NIL

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

NIL

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

NIL

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

NIL

AA. Conditions which must be satisfied during any development work

AA.1 Tree Preservation

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

General Protection Requirements:

- a) There must be no excavation or *work* within the required *Tree Protection Zone(s)*. The *Tree Protection Zone(s)* must be maintained during all *development work*.
- b) Where excavation encounters tree roots with a diameter exceeding 75mm excavation must cease. The *principal contractor* must procure an inspection of the tree roots exposed by a qualified arborist. Excavation must only recommence with the implementation of the recommendations of the qualified arborist or where specific instructions are given by Council's *Tree Management Officer* in strict accordance with such Council instructions.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the qualified arborist or where specific instructions are given by Council's *Tree Management Officer* in strict accordance with such Council instructions.

Note: Trees must be pruned in accordance with Australian Standard AS 4373 – 1996 "Pruning of Amenity Trees" and Workcover NSW Code of Practice Amenity Tree Industry 1998.
Standard Condition: E8

AA.2 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>Ulmus parvifolia</i> Chinese Weeping Elm	Standing on 15 Windsor St – Rear	8 x 8

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

- d) The following trees may be pruned in accordance with Australian Standard AS 4373 – 1996 "Pruning of Amenity Trees" and Workcover NSW Code of Practice Amenity Tree Industry, 1998 to the minimum extent necessary to provide clearance to the new development:

Council Reference No:	Species	Location	Approved pruning specification (extent of pruning)
1	<i>Ulmus parvifolia</i> Chinese Weeping Elm	Standing on 15 Windsor St – Rear	Prune as required to clear new building alignment at No17

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

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David Grey
Tree Officer