



Ordinary Council Meeting

Agenda: *Ordinary Council Meeting*

Date: *Monday 28 April 2008*

Time: *8.00pm*

Woollahra Municipal Council

Notice of Meeting

24 April 2008

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

Dear Councillors

Council Meeting – 28 April 2008

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Ordinary Council Meeting** to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Monday 28 April 2008 at 8.00pm.**

Gary James
General Manager

Meeting Agenda

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Mayoral Minute

Mayoral Minute No: 1

Subject: Sponsorship of the 2008 Wentworth Courier's Truelocal Business Awards

Author: Mayor of Woollahra, Councillor Geoff Rundle

File No: 61.G

Reason for Report: To seek approval for the allocation of \$5000 to support the Business Awards.

Recommendation:

That Council provide \$5000 to support the 2008 Wentworth Courier's Truelocal Business Awards.

Background:

The Wentworth Courier will be launching the 2008 Wentworth Courier's Truelocal Business Awards in mid May this year with a presentation evening scheduled for September.

Woollahra Council previously allocated \$3300 to support the Wentworth Courier's Eastern Suburbs Small Business Awards, last held in 2005. At the time, Council advised the event organisers that it may be worthwhile investigating the inclusion of an "environmental" category in the future Awards program. The Wentworth Courier are interested in pursuing this initiative and have sought input from Council's communications and environmental staff on the introduction of an environmental category for businesses to self nominate, as it is not always easy for customers to know or understand a businesses commitment to sustainability is. Advice has been provided on award criteria and similar awards programs. Council will continue to provide input to the event organisers with the aim of launching such a category next year. A different judging process and auditing program will be required and is not feasible for this year's Award program.

Proposal:

The Wentworth Courier is seeking Gold, Silver and Bronze sponsorships for the Awards which will be launched in May, with winners announced on 24 September 2008. Gold Level Sponsorship requires a \$13,000 investment, Silver Level Sponsorship requires a \$9000 contribution and Bronze Level is \$5000. I have been approached to seek Council's support for Bronze Level Sponsorship.

The aims and objectives of the Awards are to:

- Deliver the premier awards program for businesses in Sydney
- Promote standards of excellence in business
- Acknowledge the drive and dedication required to succeed in business
- Provide participating businesses with customer feedback and the opportunity to benchmark against their peers
- Present winners with a marketing tool to enhance their reputation and reach a wider audience
- Link supporters with the prestige of the Awards.

In return for our investment the Council will receive the opportunity to align itself with an Award program which supports local businesses. Council will also receive branding recognition on voting coupons, website, contra advertising, as well as recognition through editorial, two tickets to the awards dinner and presentation rights for our nominated category. Council will be invited to present a winner in a category closely aligned to our Management Plan objectives.

This is an Award Program that covers businesses within the Wentworth Courier distribution area (see attached map, list of suburbs and reader profile).

2008 Award categories include: employee excellence, apprentice of the year, community contribution of the year, motor vehicle dealer, café/coffee shop, formal dining, fresh food, delicatessen/gourmet food, liquor stores, fashion clothes and accessories, florist, gift shop, jeweller, home and garden retail, trades and services, business and professional services, tourism and travel, real estate, beauty, hairdresser, fitness/sport, community service, pharmacy, art, butcher, readers choice, new business and hotel/club/entertainment venue.

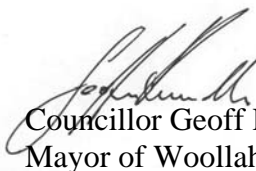
There are currently no other Bronze level sponsors confirmed. Other corporate sponsors to date include: Vodafone, MYOB, CPA, The NSW Department of State and Regional Development and Crowne Plaza.

Identification of Income & Expenditure:

Funds are available from the current Communications Special Events budget.

Conclusion:

Sponsorship of the 2008 Wentworth Courier's Truelocal Business Awards presents Council with an ideal opportunity to demonstrate support for local businesses. The Awards program will be widely promoted and professionally managed.



Councillor Geoff Rundle
Mayor of Woollahra

Annexures:

Wentworth Courier readership and publication information

9.1 Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Monday 21 April 2008 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **Trumper Park Tennis Centre Lease**
Author: Warwick Hatton, Director Technical Services
File No: Tender No 08/02
Reason for Report: To recommend to Council the acceptance of a Tender

Recommendation:

- A. That, subject to satisfactory outcome of financial checking, Council accept the offer of Nazija Holdings Pty Limited (T/a Palms Tennis Centre) for the lease of the Trumper Park Tennis Centre for the commencing rental sum of \$140,000 (excluding GST).
- B. That successful and unsuccessful tenderers be advised accordingly.

Item No: R2 Recommendation to Council
Subject: **2008/2009 Draft Budget**
Author: Don Johnston, Manager Finance
File No: 331G 2008/2009
Reason for Report: To introduce the 2008/2009 Draft Budget to the Committee and to determine its future consideration by either the Strategic & Corporate Committee or Councillor workshops

Recommendation:

- A. That the 2008/2009 Draft Operating and Capital Budgets be incorporated into the 2008/2011 Management Plan for the purposes of public exhibition noting that:
 - The withdrawal of the superannuation 'holiday' is to be funded from the improved 2006/2007 working funds position;
 - The contribution to Double Bay Centre Management is to be funded from the additional proceeds from the Cosmopolitan Centre commercial arrangements and the remaining additional proceeds will be earmarked for the 2009/2010 contribution; and
 - \$1.1m in interest earnings will be transferred to the Property Reserve
- B. That the 2008/2009 draft operating and capital budget be further considered by a future Corporate and Works committee with a view to further consideration at a Councillors workshop or meeting of the Strategic and Corporate committee.
- C. That the Corporate and Works committee give further consideration to the philosophy and strategy in developing the budget in particular the strategies for the preparation of the operating budget.

Item No: R3 Recommendation to Council
Subject: **Harbour Foreshore Cleaning Project**
Author: Melanie Tasker - Sustainability Projects Coordinator
David Sheils - Manager Public Open Space
File No: 1142.G
Reason for Report: To outline how proposed mechanical beach cleaning would be incorporated into Council's Foreshore Cleaning Program, including detailed costs, plant and funding options and staff scheduling.

Recommendation:

- A. That Council include mechanical beach cleaning into the Foreshore Cleaning Program.
 - B. That Council note the proposed changes to beach cleaning and staff schedules to improve the Program.
 - C. That Council consider funding the required upgrade works to beach access points at Watsons Bay and Camp Cove, as part of the draft 2008/09 Capital Works Program.
 - D. That the purchase of a beach cleaning machine and tractor, be funded from the Environmental Levy, specifically the Harbour Foreshore Cleaning Project listed in the Environmental Works Program (EWP) and the EWP Reserve.
 - E. That Council proceed with the purchase of a Barber Surf Rake Model 400HD at a cost of \$59,300 (GST exclusive) and one Massey Ferguson, Model 5435 2/4 wheel drive tractor at a cost of \$68,300 (GST exclusive) for use in mechanical beach cleaning.
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9.2 Development Control Committee

Items with Recommendations from the Committee Meeting of Monday 21 April 2008 Submitted to the Council for Determination

| | |
|---------------------------|---|
| Item No: | R1 Recommendation to Council |
| Subject: | 5 Dalley Avenue, Vacluse – Construction of new verandah with awning at rear of the dwelling-house, modifications to swimming pool & landscaping works – 18/12/2007 |
| Author: | Sarah Chambers – Assessment Officer |
| File No: | DA858/2007/1 |
| Reason for Report: | As the voting on the Amendment was 3 votes for the Amendment and 3 votes against the Amendment, in accordance with Council’s Codes and Policies, both the Motion and the Amendment are referred to Council for consideration. |

Recommendation 1:

THAT Development Application No. 858/2007 on land at 5 Dalley Avenue Vacluse for construction of new verandah with awning at rear of the dwelling-house, modifications to swimming pool and landscaping works be refused for the following reason:

The proposal is inconsistent with the building size and location objectives and performance criteria stipulated under Part 5.2 of WRDCP 2003. In this regard, the proposal is inconsistent with objectives O 5.2.2 and O 5.2.3 and performance criteria C 5.2.5 (side setbacks) and C 5.2.9 (FSR). The non-compliances with the requirements will have an adverse impact on the amenity of adjoining properties in terms of sense of enclosure, overshadowing, and loss of visual and acoustic privacy.

Recommendation 2:

THAT the Council, as the consent authority, grant development consent to Development Application No. 858/2007 for construction of a new verandah at the rear of the dwelling house, modifications to the swimming pool and landscaping works on land at 5 Dalley Avenue, Vacluse, subject to the following conditions:

A. General Conditions

A.1 Conditions

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

Standard Condition: A1

A.2 Definitions

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

Applicant means the applicant for this Consent.

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

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

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

Council means Woollahra Municipal Council

Court means the Land and Environment Court

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

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

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

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

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

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

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

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

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

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

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

Site means the land being developed subject to this consent.

WLEP 1995 means *Woollahra Local Environmental Plan 1995*

Work for the purposes of this consent means:

- a. the use of land in connection with development,
- b. the subdivision of land,
- c. the erection of a building,
- d. the carrying out of any work,
- e. the use of any site crane, machine, article, material, or thing,
- f. the storage of waste, materials, site crane, machine, article, material, or thing,
- g. the demolition of a building,
- h. the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- i. the delivery to or removal from the *site* of any machine, article, material, or thing, or
- j. the occupation of the *site* by any person unless authorised by an *occupation certificate*.

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

Standard Condition: A2

A.3 Approved Plans and supporting documents

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

| Reference | Description | Author/Drawn | Date(s) |
|----------------------------|-------------------------------------|------------------------|-------------|
| 1_02, 2_01 & 3_01 Rev A | Floor Plan, Sections and Elevations | X.Pace | Dec 2007 |
| A25598 | BASIX Certificate | Department of Planning | 14 Dec 2007 |

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

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

Standard Condition: A5

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. the height of the proposed enclosed awning/verandah to the rear of the existing dwelling is to be lowered in height to a maximum height of 3m from existing ground level
- b. the roof of the proposed awning/verandah is to be non-trafficable and of a dark recessive colour

These conditions are imposed in order to maintain the amenity of the adjoining residents at 3 Dalley Avenue, in accordance with Objective O5.2.3 and Performance Criteria C 5.2.3, C 5.2.5, C 5.2.8 and C 5.2.9.

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. | \$4,000 | No | T115 |
| INSPECTION FEES | | | |
| under section 608 of the Local Government Act 1993 | | | |
| Security Administration Fee | \$168 | No | T16 |
| TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES | \$4,168 Plus any relevant indexed amounts and long service levy | | |

Building & Construction Industry Long Service Payment

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

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

How must the payments be made?

Payments must be made by:

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

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

- a. the guarantee is by an Australian bank for the amount of the total outstanding contribution;
 - b. the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first;
 - c. the bank agrees to pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent; and
 - d. the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.
- Standard Condition: C5

C.3 BASIX commitments

The *applicant* must submit to the *Certifying Authority* *BASIX Certificate* No. A25598 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 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.5 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

C.6 Swimming and Spa Pools – Child Resistant Barriers

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

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

Standard Condition: C55

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

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

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

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

This condition does not apply:

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

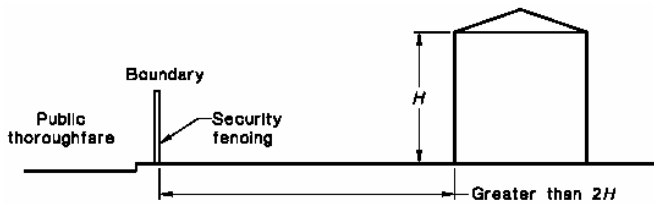
In this condition, a reference to the *BCA* is a reference to that code as in force on the date the application for the relevant construction certificate is made.

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

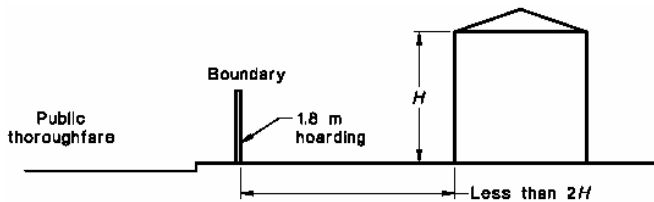
Standard Condition: D1

D.2 Security Fencing, Hoarding and Overhead Protection

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



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

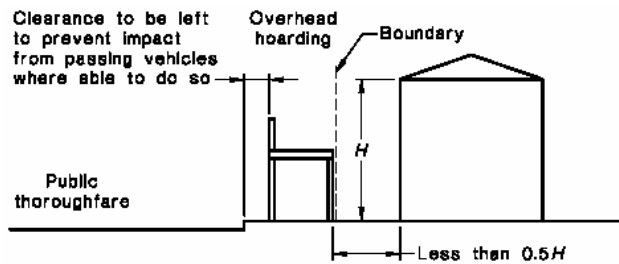


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either

- 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/ohheadprotstructures.htm>.

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

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

D.3 Site Signs

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

“Erection of signs

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

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

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

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

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

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

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

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

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

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

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

Standard Condition: D15

D.5 Notification of Home Building Act 1989 requirements

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

Standard Condition: D17

D.6 Establishment of boundary location, building location and datum

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

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

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

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

E. Conditions which must be satisfied during any development work

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

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

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

This condition does not apply:

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

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

Standard Condition: E1

E.2 Compliance with Australian Standard for Demolition

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

Standard Condition: E2

E.3 Critical Stage Inspections

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

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

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

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

E.4 Hours of Work –Amenity of the neighbourhood

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

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

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

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

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

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

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

Note: see http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf
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 Disposal of site water during construction

The principal contractor or owner builder must ensure:

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

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

Standard Condition: E17

E.7 Check Surveys - boundary location, building location, building height and stormwater drainage system relative to Australian Height Datum

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

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

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

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

E.8 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.9 Dust Mitigation

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

This generally requires:

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

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

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

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

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

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

F.1 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 garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1 – “Off-Street car parking.”
- d. All stormwater drainage systems.
- e. All mechanical ventilation systems.
- f. All hydraulic systems.
- g. All structural work.
- h. All acoustic attenuation work.
- i. All waterproofing.
- j. Such further matters as the *Principal Certifying Authority* may require.

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

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

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

F.3 Swimming and Spa Pools – Permanent Child Resistant Barriers and other matters

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

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

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

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

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

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

None relevant.

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.A25598.

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

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.A25598.

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 Swimming and Spa Pools – Maintenance

Swimming and Spa Pools must be maintained:

- a. in compliance with the *Swimming Pools Act* 1992 with regard to the provision of child-resistant barriers and resuscitation signs;
- b. in compliance with the NSW Health "Public Swimming Pool and Spa Pool Guidelines" in force at that time. Private pools are encouraged to comply with the same standards as applicable;
- c. in compliance with AS 1926.3-2003:Swimming pool safety - Water recirculation and filtration systems ;
- d. with backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e. with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - before 8 am or after 8 pm on any Sunday or public holiday, or
 - before 7 am or after 8 pm on any other day.

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

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

I.3 Noise from mechanical plant and equipment

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

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

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

J. Miscellaneous Conditions

None relevant.

K. Advising

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

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

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

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

Warnings as to potential maximum penalties

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

Warning as to enforcement and legal costs

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

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

<http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the Attorney General's www.agd.nsw.gov.au.
Standard Advising: K1

K.2 Dial before you dig



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

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

Standard Advising: K2

K.3 Builders Licences and Owner Builders Permits

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

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

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

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

Standard Condition: K5

K.4 Building Standards - Guide to Standards and Tolerances

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

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

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

The Guide can be down loaded from:

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

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

Standard Condition: K6

K.5 Workcover requirements

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

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

K.6 Appeal

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

Sarah Chambers, Assessment Officer on (02) 9391 7126

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

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

Standard Condition: K14

K.7 Release of Security

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

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

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

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

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

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

K.8 Recycling of Demolition and Building Material

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

Standard Condition: K17

K.9 Owner Builders

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

Standard Condition: K18

Item No: R2 Recommendation to Council
Subject: **7/81 Darling Point Road, Darling Point – Alterations to unit no. 7 in existing residential flat building – 30/11/2007**
Author: Larissa Northridge – Senior Assessment Officer
File No: DA801/2007/1
Reason for Report: In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to a substantive change of the Committee’s recommendation (refusal) to the officers recommendation (approval).

Recommendation:

- A. THAT Development Application No. No. 801/2007 on land at 7/81 Darling Point Road Darling Point for alterations to unit No. 7 in existing residential flat building be refused for the following reasons:
1. **Acoustic amenity**
The proposed rearrangement of rooms including living areas and wet areas will result in the loss of acoustic privacy to adjoining lots, contrary to O5.8.1 of WRDCP, 2003.
 2. **Hydraulic amenity**
The proposed rearrangement of wet areas will result in the loss of hydraulic and acoustic amenity contrary to O5.8.1 of the WRDCP, 2003.
 3. **Precedent leads to poor internal amenity**
The proposed rearrangement of wet areas and living areas creates an undesirable precedent within the building, which would have an adverse cumulative impact on the acoustic and internal amenity of adjoining lots, contrary to O5.8.1 of the WRDCP, 2003.
- B. THAT the matter be referred to the Director Planning and Development and Manager Compliance for a further report and process of prosecution.
-

- Item No:** R3 Recommendation to Council
- Subject:** **10 Military Road, Watsons Bay – Alterations & additions to existing mixed use development including the increase in the number of storeys from 3 to 4 – the number of dwellings from 1 to 2 & the number of off-street carparking spaces from 2 to 4 – 16/1/2007**
- Author:** David Booth – Senior Assessment Officer
- File No:** DA29/2007/1
- Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to a substantive change of the Committee’s recommendation (refusal) to the officers recommendation (approval).

Recommendation:

THAT Development Application No. 29/2007 for alterations and additions to an existing mixed use development including the increase in the number of storeys from 3 to 4, the number of dwellings from 1 to 2 and the number of off-street carparking spaces from 2 to 4 on land at 10 Military Road Watsons Bay be refused for the following reasons:

1. The SEPP 1 objection to Council's 8.2 m height development standard is not supported due to the inconsistency of the non-compliant aspect of the proposal with objective 12AA (a) of Woollahra LEP 1995 due the impact on views of Sydney Harbour and the foreshore from 11 – 17 Military Road, Watsons Bay.
2. The proposed number of storeys (4) exceeds the maximum permissible (2) under Section 4.6.1 C1 (Building Height) of the Watsons Bay Heritage Conservation Area DCP.
3. Excessive bulk and scale.
4. The proposed excavation at basement floor level to the alignment of both of the side boundaries is non-compliant with the minimum required 1.5 m boundary set back for excavation under Section 4.6.1 C9 (Siting and Alignment) of the Watsons Bay Heritage Conservation Area DCP.

Item No: R4 Recommendation to Council

Subject: **129 Hopetoun Avenue, Vaucluse – Demolition of existing residential flat building & construction of new residential flat building including basement parking, new swimming pool, landscaping & site works – 2/1/2007**

Author: Simon Taylor – Senior Assessment Officer

File No: DA1/2007/1

Reason for Report: In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to a substantive change of the Committee’s recommendation (refusal) to the officers recommendation (approval).

Recommendation:

- A. THAT Development Application No. 1/2007 on land at 129 Hopetoun Avenue Vaucluse, for demolition of existing residential flat building and construction of new residential flat building including basement parking, new swimming pool, landscaping and site works be refused for the following reasons:
1. the excessive amount of excavation for the basement level car park will have an adverse impact on the amenity and stability of adjoining properties due to the minimal setback of excavation from the boundaries and adjoining properties.
 2. the size and siting of the vehicular entrance within the natural sandstone rockface and the subsequent replacement of the natural sandstone rockface with new sandstone rock and cladding will have a detrimental impact on the visual amenity of the streetscape of Hopetoun Avenue.
 3. the setback of the proposal from the adjoining buildings will have an adverse impact on the amenity of adjoining properties in terms of sense of enclosure, loss of solar access, loss of privacy and bulk and scale.
 4. the adverse impacts on adjoining properties including stability, loss of privacy, loss of solar access, sense of enclosure and bulk and scale is indicative the proposal represents an overdevelopment of the site to the detriment of the streetscape and adjoining properties
- B. THAT in accordance with Council’s policy of confidentiality, the confidential report remain confidential for a period of six (6) months.
-

9.3 Urban Planning Committee

Items with Recommendations from the Committee Meeting of Monday 14 April 2008 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: 4 Victoria St And 18 Cliff St, Watsons Bay
Author: Jodi Ayre – Former Strategic Heritage Officer
Susan O'Neill - Strategic Heritage Officer
Chris Bluett - Manager, Strategic Planning
File No: 1080 [G] WB
Reason for Report: In accordance with Council's Code of Meeting Practice the Committee chair is not able to use a casting vote to determine the matter. As the voting on the Amendment was 3 votes for the Amendment and 3 votes against the Amendment, both the Motion and the Amendment are referred to Council for consideration.

Recommendation 1:

- A. THAT a draft local environmental plan be prepared to amend Woollahra Local Environmental Plan 1995, by including the following place as a heritage item in Schedule 3:
Cliff Street Watsons Bay Cobble sandstone road archaeology
- B. THAT 18 Cliff Street not be listed as a heritage item in Woollahra Local Environment Plan 1995
- C. THAT a development control plan be prepared to amend the Watsons Bay Heritage Conservation Area Development Control Plan by deleting the listing of 18 Cliff Street Watsons Bay as a contributory item.
- D. THAT, in principle, Council intends to list 4 Victoria St, Watsons Bay as a heritage item in the Watsons Bay Heritage Conservation Area Development Control Plan subject to hearing submissions from the owner of the property and other interested parties.

Recommendation 2:

- A. THAT a draft local environmental plan be prepared to amend Woollahra Local Environmental Plan 1995, by including the following place as a heritage item in Schedule 3:
Cliff Street Watsons Bay Cobble sandstone road archaeology
- B. THAT 18 Cliff Street not be listed as a heritage item in Woollahra Local Environment Plan 1995.
- C. THAT 18 Cliff St, Watsons Bay continue to be identified as a contributory item in the Watsons Bay Heritage Conservation Area Development Control Plan.
- D. THAT , in principle, Council intends to list 4 Victoria St, Watsons Bay as a heritage item in the Watsons Bay Heritage Conservation Area Development Control Plan subject to hearing submissions from the owner of the property and other interested parties.

Notices of Motion

Item No: 1
From: Councillors Huxley and Petrie
Date: 18 April 2008
File No: 900.G

- A. That Senior staff be requested to meet with representatives of Woollahra's Jewish Community to discuss the installation of permanent and retractable bollards as safety devices for the protection of people and buildings owned by the Jewish Community, of the kind as are in place at Parliament House Canberra. These retractable bollards provide an acceptable amenity and planning outcome as safety and security devices and would serve to protect selected Jewish Institutions into the future.
- B. That a report on the outcomes from discussions be brought to the appropriate Committee.

Item No: 2
From: Councillor Shoebridge
Date: 21 April 2008
File No: 900.G

That a report be brought promptly to Council on the feasibility and costs of Council, in consultation with the St Johns Ambulance or any other not for profit education provider, conducting free, accessible and well publicised public education courses on emergency revival and first aid for parents and other residents of the municipality.

Item No: 12
Subject: Questions Without Notice
Author: Gary James, General Manager
File No: 467.G/Q01
Reason for Report: To provide a response to Questions without Notice from Council Meeting of 14 April 2008 and for Councillors to ask Questions without Notice in accordance with Council's Code of Meeting Practice.

Recommendation:

That the responses to previous Questions without Notice be noted.

Background:

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

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

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

Responses to Councillors Questions Without Notice on 14 April 2008 are as follows:

Councillor Comino asking:

The State Government has previously advertised for grant applications to fund Council projects on harbour foreshores and land/water interfaces. What grants have been applied for and obtained in respect of the Rose Bay Promenade works and other foreshore and seawall works in Woollahra?

Manager Public Open Space in response:

In 2003 the State Government introduced the Sharing Sydney Harbour Access Grants Program (SSHAP) administered by the Department of Planning. The program is aimed at funding projects that promote access and enjoyment of the Harbour on a \$ for \$ basis. The maximum value of any grant awarded is \$200,000. Projects not eligible for funding include seawalls, harbour swimming facilities and maintenance / restoration works.

Many of the largest grants awarded to Councils and the NPWS have been those that have provided new links along the foreshore where none had previously existed, or the provision of shared pedestrian / cycleways. A full list of successful projects is found on the Department's website http://www.planning.nsw.gov.au/harbour/sydney_access.asp

Since the inception of the SSHAP we have been awarded 8 projects totalling \$261,845.

2003

\$51,150 Lyne Park boat ramp upgrade

\$30,000 Parsley Bay Jetty upgrade

2004

Nil

2005

\$19,000 Upgrade Darling Point Wharf

\$65,000 Rose Bay Promenade

\$28,688 Rushcutters Bay Park bridge

2006

\$19,966 Rose Bay Dinghy Storage Facilities

2007

\$9,041 Tingira Memorial Park and Gibsons Beach dinghy storage facilities

\$39,000 Cliff Street cultural heritage interpretation

In 2005 we applied for the maximum grant of \$200,000 for the Rose Bay Promenade project and we received \$65,000. Enquiries with the Department at that time indicated that we did not receive the full \$200,000 as i) limited funding had to be spread across many worthy projects; and ii) A large component of the Rose Bay Promenade project entailed restoration of the existing balustrade, lighting and reconstruction of the footpath. These components were not eligible, or a priority for funding in 2005.

Councillor Comino asking:

Did any staff or other person on behalf of Council attend the information day held by Ashington for the 33 Cross Street development proposal last Saturday, 12th April?

Have there been any Pre-DA discussions with staff in respect of proposals for this significant Double Bay site?

Mayor in response:

I attended the 9.00am session. You will recall that last, I think it was last November, there was a presentation with Councillors and the Double Bay Chamber of Commerce where Ashington set out what their thoughts were and there were six schemes which had montages of the proposed building. My recollection was that one was a 28 storey tower, their preferred option. Their second preferred option to my recollection was 3 towers ranging from 12-13-14 storeys, including 250 meters of shop front. There was one option that kept the existing height of the building. On Saturday, not one of those plans were shown to the public. The presenters at no stage mentioned the word height. They also indicated that they thought that construction would commence in 2009 but had no plans available and at the moment there is no DA lodged with Council.

Director Planning and Development in further response:

To clarify, the options were:

Option 1 - Refurbishment of the existing building

Option 2 - Refurbishment of existing building + 2 additional levels without courtyard.

Option 3 - Existing building + 3 levels with courtyard, total 9 levels

Option 4 - New development, 6-8 levels podium with courtyard

Option 5 - New Development, 4-24 levels, single building element over podium with courtyard

Option 6 - New Development, 4-14 levels, three building elements over podium with courtyard.

Councillor Comino asking:

Would you convey my sincere thanks and appreciation to all staff involved in the planning, directing and supervision of the Rose Bay Promenade project including the staff involved in staging and conducting the historical re-opening event yesterday?

Mayor in response:

I will do that.

Councillor Gardner asking:

While jogging from Lyne Park, going along New South Head Road and returning via Old South Head Road, I noticed numerous instances where the standard 1.5m wide footpath was considerably reduced or completely inaccessible due to low over-hanging tree or shrub branches, protruding hedges, overgrown grass and ground shrubs, construction barricades etc. Two persons abreast holding a conversation is impossible. Pushing a pram along this route would be most hazardous.

Could Council please advise whether it is in its power to demand the owners abutting the restrictive footpaths to prune, clear or remove the offending vegetation and barricades? And if so, will it please do so?

Manager Parks and Street Trees in response:

I have spoken to Cr Gardner who has identified several sites on New South Head Road and Old South Head Road with encroaching vegetation. I will arrange for any dangerous branches to be pruned by Council staff in the week commencing 21 April and for resident notification letters where appropriate.

I have also spoken to Woollahra's Civil Works staff who will inspect for any unnecessary barricades.

Councillor Huxley asking:

Is Council proposing to distance itself as the public consent authority from this particular marketing campaign (33 Cross Street, Double Bay). We have not asked them to consult with the community and I for one would not like the community to believe that we were driving this and they had our imprimatur to go and do it. I am asking is it possible for the Mayor to write on behalf of Council that we are not associated with that?

Mayor in response:

I will answer that in 2 ways.

Firstly, a letter has already been drafted and I have sent it to Justine Henderson to review before I have it sent to the Wentworth Courier and Ashington.

Secondly, I went there not because I intended to say anything, but to observe what was going on so that I could have my own self an understanding of what they were representing to the public as part of their community consultation and I felt the community was let down considerably by the lack of frankness and openness to the community as to what they were planning.

Mayor in further response:

A letter was forwarded to the Editor and Editorial of Wentworth Courier on 15 April 2008.

Councillor Huxley asking:

We all know the sham process in place for these planning reforms and the shortness of time that that has occurred between when our submissions all went in and now there is this complex document with all these changes. I would like to ask the Mayor 2 things.

Will you convene a meeting of Councillors so that we can prepare a submission in response to the new draft?

Could you please write expressing Woollahra's rejection of this sham community consultation process and our objection to any diminution of community input and expansion of the role of private certifiers?

Mayor in response:

I spoke to both Director Coker and the General Manager on Friday about this. The General Manager kindly gave me a copy of the amendments which exceeds some 137 pages and Mr Coker is working through it. Whether or not we can organise a meeting in time to be able to have that input, if we can we will. It may well be that what Mr Coker will have to do is to do a position paper and then circulate it to people because of the short time available.

Councillor Martin asking:

What plans do we have for the north west corner of 5 Ways? It's a bit naked. I believe a bench against the Chicken Shop looking out towards the Royal would help complete this corner and provide a pleasant amenity.

Manager Property and Projects in response:

We will investigate this to ensure that underground services etc are not obstructed and install a seat if possible.

Councillor Martin asking:

When will you answer the On notice portion of my Question of last time re the White City North/South path? I am not seeing much progress hence.

Director Planning and Development in response:

We are currently waiting for our Technical Services Division to complete the concept plan.

Councillor Martin asking:

Who is responsible for preparing the concept plan?

Director Planning and Development in response:

We have indicated that we will prepare a concept plan at least as it applies to the land underneath the viaduct connecting the Sydney Grammar School land to Mahoney Lane.

Councillor Dawson asking:

A resident has called for a pedestrian crossing be put on New Beach Road. The proposal is for a crossing where many mothers push their prams to Rushcutters Bay Park. Sight lines for cars is poor. What can we do? Can this matter go before the Traffic Committee?

Director Technical Services in response:

The matter can go before the Traffic Committee and indeed it would need to. There have been responses to that request before which has advised that a pedestrian crossing would not be feasible in New Beach Road. We have suggested the alternative of pedestrian refuges and those are being investigated.

Manager Infrastructure Asset Management in further response:

Council's officers in the Traffic Section have spoken to a resident of New Beach Road on a number of occasions about this matter. As well as the unlikely situation that any particular location along this section of roadway would satisfy the RTA warrants for a pedestrian crossing, the provision of such a facility could cost the community quite a number of parking spaces depending on how it is installed. As parking is at a premium at this location, Council officers are about to commence preparation of a concept plan incorporating traffic calming solutions such as pedestrian refuges, median islands (either painted, concrete or a combination), and linemarking to narrow lane widths along this road. This traffic calming if successful will lower speeds in this street thereby making it safer for pedestrians to cross the road without making a specific location the crossing point in this street. This should be a better outcome as this street is quite long and pedestrians cross this road at numerous locations and are unlikely to walk long distances to reach a specific crossing point.

Councillor Dawson asking:

Along Victoria Road opposite the Packer contonement was a tree. It stood outside the Malaysian Consul. It was felled two years ago. When will it be replaced?

Manager Parks and Street Trees in response:

A brushbox tree will be planted outside 67 Victoria Road this April to replace the lemon scented gum.

Councillor Excell asking:

Where are we up to with Watsons Bay Baths restoration and improvement project?

Manager Public Open Space in response:

Consultants have prepared detailed plans in preparation for DA submission next month. A progress report is being prepared for the Corporate and Works Committee meeting of 5 May which outlines our response to Council's previous resolution to improve access for mobility impaired and provide additional shading. As part of preparing the DA we have engaged architects and experts in engineering, ecology, access and heritage. We have also held discussions with NSW Maritime to obtain owners consent prior to DA lodgment.

Councillor Shoebridge asking:

Have we had any advance from the RTA regarding the New South Head Road pedestrian crossing at Rushcutters Bay?

Director Technical Services in response:

The answer to that question is yes and no. We have been told informally that they have agreed to that crossing and I understand there may be funds being made available but we are awaiting a formal response. I understand this will be dependant on a funding decision after the State budget.

Councillor Shoebridge asking:

What is the current height limit for development on the Stamford Plaza site in Double Bay?

Director Planning and Development in response:

The height limit on that site would be 16.5 meters, expressed in the Double Bay DCP and the envelopes in that DCP.

Councillor Shoebridge asking:

Is there any restriction on the number of floors allowed on the site? If so, what is it?

Director Planning and Development in response:

The 16.5 meter height limit assumes a five level building.

Councillor Shoebridge asking:

Is there an FSR restriction on the site? If so, what is it?

Director Planning and Development in response:

The FSR for that site is 2.5:1. The existing site is built to an FSR of 4:1.

Councillor Shoebridge asking:

Can the developer Ashington be publicly advised of these important planning controls and Council's support of them?

Director Planning and Development in response:

That has already happened.

Gary James
General Manager

Annexures:

Nil

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