



# Ordinary Council Meeting

**Agenda:** *Ordinary Council Meeting*

**Date:** *Monday 26 May 2008*

**Time:** *8.00pm*

# Woollahra Municipal Council

## Notice of Meeting

22 May 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 – 26 May 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 26 May 2008 at 8.00pm.**

Gary James  
General Manager

## Meeting Agenda

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1.	Confirmation of Minutes – Ordinary Meeting	12 May 2008
2.	Leave of Absence and Apologies	
3.	Declarations of Interest	
4.	Late Correspondence	
5.	Petitions Tabled	
6.	Mayoral Minute	Nil
7.	Public Forum	
8.	General Manager’s Report	Nil
9.	Reports of the Committees	
9.1	Corporate & Works Committee	19 May 2008
	R1 Duxford Street Paddington – Streetscape Improvements	1
	R2 Tender Report for The Crescent Vacluse Stage 1–Stormwater Drainage Upgrade–Tender 08/05	
	R3 Bradley Avenue Bellevue Hill – Road Reconstruction Stage 1	
	R4 Loan Borrowing	
	R5 Goods & Services Tax Compliance Certification	
	R6 Report on Notice of Motion to record in meeting minutes reasons where motions are adopted contrary to staff recommendations and councillor voting details	
9.2	Development Control Committee	19 May 2008
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	R2 1A Wolseley Crescent, Point Piper	26
9.3	Urban Planning Committee	12 May 2008
	R1 Temple Emanuel 7 Ocean Street, Woollahra	27
	R2 Public Car Parking in the Double Bay Commercial Centre - Draft DCPs & Draft Section 94 Contributions Plan	
	R3 Notice of Motion - Dilapidation Reports	
9.4	Community & Environment Committee	12 May 2008
	R1 Draft Banner Policy	29
	R2 Application as an Enforcement Agencies under the <i>Food Act 2003</i> – <b>Matter of Urgency Submitted to Council Meeting 12 May 2008</b>	
10.	Rescission Motion	Nil
11.	Notices of Motion	30
12.	Questions without Notice	32

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## 9.1 Corporate & Works Committee

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### Items with Recommendations from the Committee Meeting of Monday 19 May 2008 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** **Duxford Street Paddington – Streetscape Improvements**  
**Author:** Mark Ramsay - Manager Depot & Waste Services  
**File No:** Tender No 08/06  
**Reason for Report:** To recommend to Council the acceptance of a Tender

**Recommendation:**

- A. That Council enter into a Contract with Statewide Civil Pty Ltd for Duxford Street, Paddington – Streetscape Improvement Project for the sum of \$272,540 (excluding GST).
- B. That successful and unsuccessful tenderers be advised accordingly.

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**Item No:** R2 Recommendation to Council  
**Subject:** **Tender Report for The Crescent Vaucluse Stage 1 – Stormwater Drainage Upgrade – Tender 08/05**  
**Author:** Mark Ramsay - Manager Depot & Waste Services  
**File No:** Tender No 08/05  
**Reason for Report:** To recommend to Council the acceptance of a Tender

**Recommendation:**

- A. That Council enter into a Contract with Eco Civil Constructions Pty Ltd for The Crescent, Vaucluse – Hopetoun Ave, Stage 1 Stormwater Drainage Upgrade Project for the sum of \$533,938.56 (excluding GST).
  - B. That successful and unsuccessful tenderers be advised accordingly.
  - C. Council seek further funding through Floodplain Risk Management Program Grants to assist funding future stages of this project.
-

**Item No:** R3 Recommendation to Council  
**Subject:** **Bradley Avenue Bellevue Hill – Road Reconstruction Stage 1**  
**Author:** Mark Ramsay - Manager Depot & Waste Services  
**File No:** Tender No 08/04  
**Reason for Report:** To recommend to Council the acceptance of a Tender

**Recommendation:**

- A. That Council enter into a Contract with AYZ Landscapes and Civil Construction Pty Ltd for Bradley Avenue, Bellevue Hill – Road Reconstruction Stage 1 for the sum of \$136,296 (excluding GST).
  - B. That successful and unsuccessful tenderers be advised accordingly.
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**Item No:** R4 Recommendation to Council  
**Subject:** **Loan Borrowing**  
**Author:** Michelle Phair, Team Leader Financial Services  
**File No:** 331G 2007/2008  
**Reason for Report:** To obtain approval to raise the loan required in the 2007/2008 Budget

**Recommendation:**

- 1. THAT Council authorises the raising of a \$6.525m loan as required in the 2007/2008 Budget
  - 2. THAT the General Manager be authorised to accept the most favourable quotation for a loan on the following terms:
    - Loan amount: \$6,525,000
    - Term: 10 years
    - Repayments: Semi annual
  - 3. THAT quotations be obtained for the 10 year fixed rate and the floating rate and 10 year average rate for both the fixed rate and the floating rate.
  - 4. THAT a report be prepared on the use of internal borrowings as an option.
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**Item No:** R5 Recommendation to Council  
**Subject:** **Goods & Services Tax Compliance Certification**  
**Author:** Don Johnston, Manager Finance  
**File No:** 329G  
**Reason for Report:** To seek a recommendation to Council in regard to Goods and Services Tax compliance certification.

**Recommendation:**

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

To assist compliance with Section 114 of the Commonwealth Constitution, Council certifies that:

- Voluntary GST has been paid by Woollahra Municipal Council for the period 1 May 2007 to 30 April 2008.
- Adequate management arrangements and internal controls were in place to enable Council to adequately account for its GST liabilities and recoup all GST input tax credits eligible to be claimed.
- No GST non-compliance events by the Council were identified by or raised with the Australian Taxation Office.

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**Item No:** R6 Recommendation to Council  
**Subject:** **Report on Notice of Motion to record in meeting minutes reasons where motions are adopted contrary to staff recommendations and councillor voting details**  
**Author:** Les Windle - Manager Governance  
**File No:** 900.G, 1191.G  
**Reason for Report:** To report on a Notice of Motion adopted by Council on 11 February 2008.

**Recommendation:**

That the report be noted and that no change be made to the Code of Meeting Practice.

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## 9.2 Development Control Committee

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### Items with Recommendations from the Committee Meeting of Monday 19 May 2008 Submitted to the Council for Determination

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<b>Item No:</b>	R1 Recommendation to Council
<b>Subject:</b>	<b>5 Dalley Avenue, Vaucluse – Construction of new verandah with awning at rear of the dwelling-house, modifications to swimming pool &amp; landscaping works – 18/12/2007</b>
<b>Author:</b>	Sarah Chambers – Assessment Officer
<b>File No:</b>	DA858/2007/1
<b>Reason for Report:</b>	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 the Council, as the consent authority, refuse 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, Vaucluse, for the following reasons:

- The proposed verandah will result in the loss of deep soil landscaping thereby increasing the existing level of non-compliance to an unsatisfactory level. This is contrary to the objectives under part 5.3 of Woollahra DCP 2003.
- The proposed verandah will result in excess FSR and not comply with Council’s FSR control to the detriment of the amenity of adjoining properties.
- The proposal will have an adverse visual and solar impact on 3 Dalley Avenue, Vaucluse.

#### 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, Vaucluse, 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 proposed verandah shall not exceed 3.1 metres in height and the eastern elevation is to be designed to be a minimum of 60% transparent above a wall height of 1.2 metres.
- 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
<b>LONG SERVICE LEVY</b> under Building and Construction Industry Long Service Payments Act 1986			
<b>Long Service Levy</b> Use Calculator: <a href="http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm">http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm</a>	Contact LSL Corporation or use their online calculator	No	

<b>SECURITY</b> under section 80A(6) of the Environmental Planning and Assessment Act 1979			
<b>Property Damage Security Deposit -</b> Making good any damage caused to any property of the <i>Council</i> as a consequence of the doing of anything to which the consent relates.	\$4,000	No	T115
<b>INSPECTION FEES</b> under section 608 of the Local Government Act 1993			
Security Administration Fee	\$168	No	T16
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	<b>\$4,168</b> <b>Plus any relevant indexed amounts and long service levy</b>		

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

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

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

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

Payments must be made by:

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

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

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

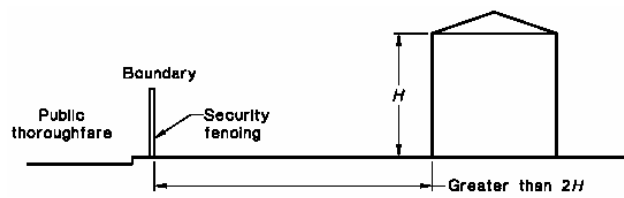
In this condition, a reference to the *BCA* is a reference to that code as in force on the date the application for the relevant construction certificate is made.

**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.

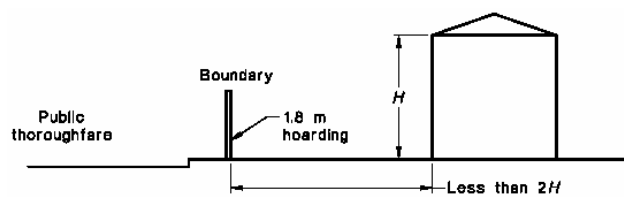
Standard Condition: D1

## 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.

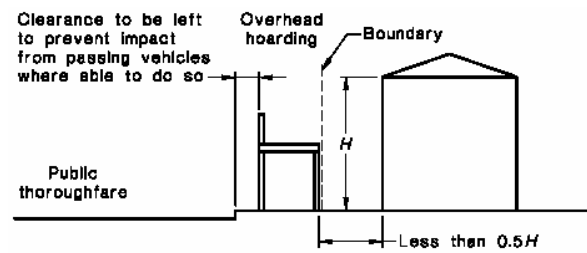


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either

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

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

## D.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 out side the approved hours of work will be considered on a case by case basis.

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

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

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

#### E.5 Maintenance of Vehicular and Pedestrian Safety and Access

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

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

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

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

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

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

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

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

Part C Management of Waste:

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

Part E Public roads:

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

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

## E.6 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](http://www.woollahra.nsw.gov.au) or obtained from Council’s office.

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

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

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

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

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

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

### **F.2 Commissioning and Certification of Systems and Works**

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

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

- a. Certification from the supervising professional engineer that the requirement of the Geotechnical / Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b. All flood protection measures.
- c. All 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](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. Advisings**

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

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

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

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

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

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

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

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

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

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

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

Standard Advising: K1

### **K.2 Dial before you dig**



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

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

Standard Advising: K2

### K.3 Builders Licences and Owner Builders Permits

Section 81A of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must 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](http://www.fairtrading.nsw.gov.au).

Standard Condition: K18

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**Item No:** R2 Recommendation to Council  
**Subject:** **1A Wolseley Crescent, Point Piper – Demolition of existing dwelling & construction of new dwelling, including swimming pool & landscape works – 21/11/2007**  
**Author:** Dimitri Lukas – Senior Assessment Officer  
**File No:** DA762/2007  
**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 the Council, as the consent authority, refuse consent to Development Application No.762//2007 for demolition of existing dwelling and construction of new dwelling, including swimming pool and landscape works on land at 1A Wolseley Crescent Point Piper for the following reasons:

1. The proposed development fails to comply with the maximum permissible height under cl.11 of the Woollahra Local Environmental Plan 1995 (WLEP 1995). The non-compliance results in a development which is incompatible with the adjoining residential neighbourhood, contrary to objective (b) of cl.12AA of the WLEP 1995 . The SEPP No. 1 objections fails to demonstrate that compliance with the height control is unreasonable and unnecessary in the circumstances.
2. The proposed development fails to comply with C4.5.7.2 of the Woollahra Residential Development Control Plan 2003 9WRDCP 2003). The non-compliance results in development which is contrary to the existing and desired future scale of development as viewed from the harbour.
3. The proposed development fails to comply with C5.3.2 of the WRDCP 2003. The non-compliance results in a form of development which does not make an adequate contribution to the landscape character of the area.

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## 9.3 Urban Planning Committee

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### Items with Recommendations from the Committee Meeting of Monday 12 May 2008 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** Temple Emanuel 7 Ocean Street, Woollahra  
**Author:** Jodi Ayre - former Strategic Heritage Officer  
Susan O'Neill - Strategic Heritage Officer  
**File No:** 1080.G [W]  
**Reason for Report:** To respond to the Council decision made on 9 October 2006, deferring the inclusion of 7 Ocean St, Woollahra, as a heritage item in Schedule 3 LEP 1995 to allow for a site inspection by Councillors and further consultation with property representatives.

**Recommendation:**

THAT a draft Local Environment Plan be prepared to amend Woollahra LEP 1995 to include Temple Emanuel, 7 Ocean St, Woollahra as a heritage item in Schedule 3.

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**Item No:** R2 Recommendation to Council  
**Subject:** Public Car Parking in the Double Bay Commercial Centre - Draft DCPs & Draft Section 94 Contributions Plan  
**Author:** Chris Bluett - Manager Strategic Planning  
**File No:** 136.G  
**Reason for Report:** To report on the outcome of the public exhibition of the Draft DCPs and the Draft Section 94 Contributions Plan  
To obtain the Council's approval of the Draft Plans

**Recommendation:**

That Draft Woollahra Development Control Plan for Off-street Car Parking and Servicing Facilities (Amendment No.3), Draft Double Bay Centre Development Control Plan (Amendment No.2) and Draft Woollahra Section 94 Contributions Plan 2002 (Amendment No.2) as contained in **annexures 3, 4 and 5** of the report to the Urban Planning Committee meeting on 12 May 2008 be approved.

**Item No:** R3 Recommendation to Council  
**Subject:** Notice of Motion - Dilapidation Reports  
**Author:** P Kauter - Executive Planner  
**File No:** 900.G  
**Reason for Report:** Notice of Motion

**Recommendation:**

- A. That the advice from HWL, Lawyers in respect of dilapidation report conditions in development consents dated 20/8/07 be noted
  - B. That the Council undertake to provide advice to affected property owners of the ramifications and utility of dilapidation report conditions
  - C. The advice be in the form of a notation on the development consent notice and on the letters sent to those people who made a submission in respect of the development application
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## 9.4 Community & Environment Committee

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### Items with Recommendations from the Committee Meeting of Monday 12 May 2008 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** Draft Banner Policy  
**Author:** Jo Jansyn, Cultural Development Coordinator  
**File No:** 900.G, 79.G Banners  
**Reason for Report:** To provide Council with a consistent approach to banners in the public domain.

**Recommendation:**

1. That Council adopt the Draft Banner Policy as the policy for this activity with an additional principle on no commercial use.
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## Notices of Motion

**Item No:** 1  
**From:** Councillors Cullen, Shoebridge & Comino  
**Date:** 12 May 2008  
**File No:** 900.G

That a report be brought to the Community & Environment Committee providing options for kayak storage in addition to dinghy storage at Rose Bay.

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

1. That Council condemns the decision of the Federal Government to cease payment of the \$8,000 solar rebate to those residents who choose to reduce their carbon emissions by incurring the substantial cost of installing photovoltaic solar panels but who have a household income of more than \$100,000.
  2. That Council calls on the Federal Government to show real financial support for Australia's renewable energy industry, starting with reinstating the solar panel rebate to all residents who choose to install photovoltaic solar panels.
  3. That Council communicate this decision to the Federal Minister for the Environment, Peter Garrett, in an open letter.
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**Item No:** 3  
**From:** Councillors Huxley & Petrie  
**Date:** 21 May 2008  
**File No:** 900.G

That a report be brought to Corporate and Works Committee that reviews the current rubbish and recycling programme in Paddington and selected streets in Woollahra, where access and storage of bins is limited.

That the report investigate the return of 2 weekly collections and the amelioration of noise and aural impacts.

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**Item No:** 4  
**From:** Councillors Huxley & Petrie  
**Date:** 21 May 2008  
**File No:** 900.G

That this Council reject the opportunity provided for, by Minister Sartor's, Local Government Amendment [Elections] Bill 2008, to amend the current number of wards and Councillors, as described in the Bill without going to a referendum.

That, the Local Government Amendment [Elections] Bill 2008 be circulated to Councillors to ensure they are fully informed.

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**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 12 May 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.

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**Background:**

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

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

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

Responses to Councillors Questions Without Notice on 12 May 2008 are as follows:

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**Councillor Boskovitz asking:**

As you would know Boris Johnston was recently elected as the new Mayor of London. Would the Mayor be prepared to write on behalf of Council to Mr Johnston and congratulate him on his election to this high office?

**Mayor in response:**

If you provide me with a draft document, I will consider it.

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**Councillor Boskovitz asking:**

I have received correspondence from a resident adjoining Percival Park, Rose Bay stating that not much work had been done in regards to the rejuvenation of the park.

His particular concerns included:

- the light had not been fixed;
- the graffiti on his boundary wall facing the harbour has yet to be cleaned; and
- some debris which could potentially be dangerous and used in an inappropriate way has not been removed.

Could this situation be remedied hastily? Could I get an update on the works that have been done and what the plans are into the future?

**Manager Parks & Street Trees in response:**

I inspected Percival Park on the morning of Monday 19 May and found the Energy Australia lights have been repaired, the graffiti on the boundary wall has been removed, and new signage has been fixed to the light poles.

The large Hibiscus tileaceus has been uplifted to allow light to reach the pedestrian path, the area has received it's scheduled horticultural maintenance and there was no evident dangerous debris. This winter we plan to replant and mulch the understorey areas with shade tolerant plants such as Cliveas. This work has commenced.

The Rose Bay Police have contacted me acknowledging receipt of my letter advising them of resident complaints about anti-social behaviour in this area at night.

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**Councillor Boskovitz asking:**

Could the Director Planning and Development please provide details on the amount of penalty notices issued to vehicles of the 5 wards within the Woollahra Municipal Council?

Could he also provide the amount of revenue that is generated per ward from parking penalty notices issued?

**Manager Compliance in response:**

The information requested is not available as the State Debt Recovery system is not linked to the Council's property system therefore it is not possible to obtain statistical information on individual Wards.

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**Councillor Boskovitz asking:**

The Council had requested some funding from the State Government for the works that the Council propose to do at Gap Park. What is the status of this funding submission? Has the State Government got back to us on this matter yet?

**Manager Public Open Space in response:**

Last April we submitted a grant application to the NSW Department of Planning under the Metropolitan Greenspace Program. We have sought the maximum amount of \$200,000 for Gap Park. It is anticipated that successful grants will be awarded in September / October this year. Other applicable grants and funding submissions are being prepared.

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**Councillor Comino asking:**

Are the high timber and chainwire fences now erected along the cliff leading to and away from the Gap installed by Council or the State Government? What is planned for the lower areas fencing remaining in place to the ocean side of the new enclosure fencing?

**Manager Public Open Space in response:**

The new fencing is being installed by Council and continues the roll-out of the complete replacement of the coastal fence we commenced last year. The two main viewing areas at the Gap and adjacent to Jacobs Ladder are proposed to be fenced in accordance with the Gap Park Masterplan which has a proposed funding allocation in next years budget. The old fence is being retained during the installation of the new fence to ensure continued public safety during the works and will be removed at the completion of the fencing work. Any suitable timber salvaged from the old fence will be recycled.

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**Councillor Comino asking:**

Is Council aware of the exhibition titled "Flying Boats" being held at the Museum of Sydney May 10 to September 14, which centres around Rose Bay as home to Sydney's first international airport. As this year marks the 70<sup>th</sup> anniversary of the establishment of the Catalina Flying Boat Base at Lyne Park, Rose Bay, has Council planned any commemorative activities?

**Director Community Services in response:**

The Library & Information Services are aware of the exhibition and during History Week in September we are planning to stage an exhibition on the Rose Bay Foreshore, in particular Lyne Park. The Local History Centre does not hold enough archives for a stand alone exhibition as these are predominantly kept at Qantas Archives, however the exhibition in History Week will include some information on the Catalina Flying Boat Base, the restored promenade and other activities that have occurred in this location.

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**Councillor Sinclair King asking:**

I have received a letter concerning barking dogs at Marathon Mews and wish to tender this letter to Council.

**Mayor in response:**

I have a reply that I have signed tonight and it will be going out tomorrow. A copy will be given to you. A Notice of intention to declare the Dogs a Nuisance was issued on the 2 May 2008.

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**Councillor Sinclair King asking:**

Is Council aware that Woollahra residents who have submitted objections to the significant expansion of the Double Bay Marina are now no longer able to berth boats at the Marina, even if they require access to NSW Waterways swing moorings? To get to swing moorings you need to go from the Marina. Isn't the DA being promoted as a community asset?

**Mayor in response:**

The letter you are referring to was a commercial arrangement with the gentleman paying \$160 per month to access his swing moorings from that. I saw the letter as well. I think the General Manager has seen it as well. We are not promoting the DA at all, they are promoting it.

**Director of Planning & Development further in response:**

We are aware of the actions taken by the marina operator. The behaviour of the marina operator is not a relevant matter for consideration of the DA.

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**Councillor Excell asking:**

Could our regulatory officers please attend the Scotts Prep drop off line in a frequent adhoc manner as I have had several complaints regarding the unruly behaviour of the mummies while dropping off their children?

**Manager Compliance in response:**

Council Parking Enforcement Officers undertake routine patrols of all school zones. A customer request has been raised seeking increased patrols of the Scotts Prep area over the coming weeks.

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**Councillor Excell asking:**

Do we supply facilities in public areas, parks, playgrounds for people to recycle of their disposable bottles?

**Director Technical Services in response:**

No.

**Manager Parks & Street Trees further in response:**

We are currently trialing public place recycling at Trumper Park. It has been in operation for approximately 5 weeks and seems to be working well with little contamination evident. Although successful here, it may not work in all parks and individual trials will need to be conducted.

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**Councillor Excell asking:**

Are our waterless urinals still waterless?

**Manager Parks & Street Trees in response:**

The urinals at Steyne Park, Lyne Park, Robertson Park and Christison Park are still waterless. The microbial urinal cubes are functioning well at these sites.

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**Councillor Shapiro asking:**

Turning right from Bundarra Road into Victoria Road, there is a blind spot when cars are parked along Victoria Road close to the corner. Twice I have had near misses as I was half way across Victoria Road before I could see a car approaching. Please can we put a sign so that there is ample sight lines.

**Director Technical Services in response:**

I will refer the matter to Council's traffic section, with a report to the Traffic Committee.

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**Councillor Shapiro asking:**

There is a large boat parked in Victoria Road just off March Street. Although it is legally parked it blocks sight lines for cars from March Street. Please can we request it move further down Victoria Road?

**Director Technical Services in response:**

Not if it is legally parked.

**Mayor in further response:**

We can't do a thing, we can't even find out the owner.

**Councillor Shapiro asking:**

A letter in the Wentworth Courier from Esther Vine, President of the resurrected Double Bay Theatre Committee asks Council to “listen to the community and fulfil our obligations” by re-opening the Double Bay theatre. Please can you respond?

**Mayor in response:**

I have responded to that letter, we had difficulty trying to track the lady down because she is not registered on the rolls, she is not a rate payer but we have sent a letter via the Wentworth Courier personally addressed to her and not the Courier, addressed to her explaining the situation to her and suggesting that she might address her concerns to the owners or Westfield.

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**Councillor Cullen asking:**

When will the jetty and pontoons at Rose Bay (old walkways for the floating restaurant) be removed?

**Director Technical Services in response:**

The removal is being organised by NSW Maritime. We understand that they have called tenders for a contractor. I would have to ascertain whether or not that contractor has been engaged to date.

**Mayor in further response:**

They took 9 months to move the floating restaurant.

**Manager Public Open Space further in response:**

In a press release from Mr Tripodi, the Minister for Ports and Waterways dated 14 May 2008, it is stated that all remaining structures associated with the former restaurant will commence to be removed 19 May 2008. A copy of the press release has been emailed separately to Councillors. A report regarding proposed replacement fencing between the Rose Bay Promenade and the boat ramp is being prepared for the consideration of the Community & Environment Committee at its meeting of 10 June 2008.

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**Councillor Shoebridge asking:**

I have received correspondence from the owners of 88-90 Wolseley Road, Point Piper regarding the potentially unlawful pruning of a significant smooth barked Apple Tree on the harbour shore by a commercial tree pruning service at the direction of a third party. I enclose correspondence from the owner relevant to this issue.

**Director Technical Services in response:**

We have received the information today Mr Mayor and we will be instructing our solicitor tomorrow. We will first of all need to interview the Council officers who went to the site who is presently on an RDO today and there we will be action taken once we have been able to do that. I would point out however, that in order to obtain a prosecution we would need documentary evidence of who engaged the contractor and who the contractor was and we do not have either of these things at the moment.

**Manager Public Open Space further in response:**

Council's tree officer and a ranger attended the location and photographic evidence was obtained of branches pruned from an Angophora costata located adjacent to the foreshore. We have sought further information from all adjoining properties regarding the unauthorised pruning. We have also sought information from a commercial tree service regarding their alleged involvement in the pruning of the tree. An appropriate course of action will be determined following any further information received and advice from our solicitors.

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**Councillor Shoebridge asking:**

I have received two letters from two different residents who because they objected to the Double Bay Marina had their access to the Marina denied them explicitly because they had exercised their right to object to the Marina's development. Does Council have anyway of protecting residents from this behaviour?

**General Manager in response:**

I am happy to take the question on notice and ask the question, but my response is that it is not a matter for the Council. I think we would be concerned about that action, but we are not the applicant and it is a matter between the commercial operators and the person that is using the mooring

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**Councillor Petrie asking:**

On behalf of the board of Point Zero could you thank the staff, especially Kylie Walshe's department for the extra \$5,000 grant given to this very important charity and cause?

**Mayor in response:**

Thank you, I will do that with pleasure.

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Gary James  
General Manager

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**Annexures:**

Nil