

Council Meeting

Monday 13 May 2013

Table of Contents

Items Determined Under Delegated Authority by Council Committees	1365
Council Meeting.....	1366
Confirmation of Minutes.....	1367
Leave of Absence.....	1367
Apologies	1367
Declarations of Interest	1367
Petitions.....	1369
Mayoral Minute	1370
1. Metropolitan Mayors ' association	1370
Suspension of Standing Orders	1372
Corporate & Works Committee	1375
R1 Holdsworth Community Centre Incorporated - Funding Agreement and Leases for the Woollahra Seniors & Community Centre and Holdsworth Community Centre.....	1375
R2 Paddington Library Agreement	1376
R3 Draft 2013/14 Budget.....	1376
R4 Revised Community Strategic Plan – Woollahra 2025 and Draft Delivery Program 2013 to 2017 and Operational Plan 2013/14	1377
Development Control Committee	1378
R1 63 William Street, Paddington – Unauthorised works – external painting of buildings in sky blue, replacement of double hung windows on ground floor with full glass windows – 13/02/2013	1378
R2 232 Old South Head Road, Vacluse – Alterations and additions to existing residential flat building – 08/11/2010.....	1381
R3 18, 18A & 20 Albert Street, Edgecliff – Subdivision of existing sites to enable construction of 2 residential flat buildings containing 6 units with basement car parking for 16 vehicles, new swimming pool, landscaping, site works and alterations and additions to existing buildings – 24/08/2012.....	1383
9.5 Strategic & Corporate Committee	1440
R1 Draft Woollahra Local Environmental Plan 2013 - Request to Endorse The Draft LEP for Public Exhibition	1440
Notice of Motion.....	1442
Questions for Next Meeting.....	1444

Items Determined Under Delegated Authority by Council Committees

The following Items were determined under Delegated Authority. To see the delegated decisions of Council please refer to the individual Committee Meeting Minutes.

Corporate & Works Committee Meeting held on Monday 6 May 2013

- D1 Confirmation of Minutes of Meeting held on 15 April 2013

Development Control Committee Meeting held on Monday 6 May 2013

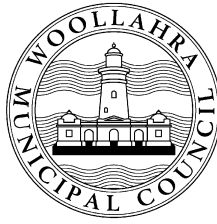
- D1 Confirmation of Minutes of Meeting held on 15 April 2013
- D2 DA248/2012 – 11 Waimea Avenue, Woollahra – Alterations & additions to the existing dwelling, including a new attic level & ‘carriage house’ addition at the rear of the site – 19/6/2012
- D3 DA39/2013 - 63 William Street, Paddington – Unauthorised works – external painting of buildings in sky blue, replacement of double hung windows on ground floor with full glass windows – 13/02/2013 – **See Item R1**
- D4 DA35/2013 – 217 Glenmore Road, Paddington - Conversion of front two windows into one window, extension into breezeway, demolition of internal stair and construction of new spiral stair, internal alterations and relocation of existing condenser to rear of building – 11/02/2013
- D5 DA522/2012 – 37 Wunulla Road, Point Piper – Alterations and additions including extension of the living area and balcony, additional fenestration and internal works – 30/11/2012
- D6 DA524/2012 – 1/74 Wolseley Road, Point Piper – Construction of roof terrace for use by unit 1 including a roof and pergola, new stairwell, landscaping and internal alterations – 3/12/2012
- D7 DA601/2010 – 232 Old South Head Road, Vaucluse – Alterations and additions to existing residential flat building – 08/11/2010 – **See Item R2**
- D8 DA347/2012 – 18, 18A & 20 Albert Street, Edgecliff – Subdivision of existing sites to enable construction of 2 residential flat buildings containing 6 units with basement car parking for 16 vehicles, new swimming pool, landscaping, site works and alterations and additions to existing buildings – 24/08/2012 – **See Item R3**
- D9 DA207/2012 – 7 Banksia Road, Bellevue Hill – Demolition of the existing single dwelling and construction of a new residential flat building consisting of five apartments and basement level car parking – 18/05/2012
- D10 Register of Current Land and Environment Court Matters and Register of Court Proceedings for Building Control, Environmental Control and Health Control
- D11 DA712/2000/26 - 103 Darling Point Road, Darling Point - A new viewing platform at the end of a modified foreshore access stair; the deletion of condition 176; the modification of condition 29; the addition of a proposed condition 29A regarding the 'Stair Detail & Landing' and the deletion of condition 30 – 12/03/2013

Urban Planning Committee Meeting held on Monday 22 April 2013

- D1 Confirmation of Minutes of Meeting held on 8 April 2013
- D2 Draft Delivery Program 2013 to 2017 and Operational Plan 2013/14 - Referral of Goal 4 - priorities and Actions

Community & Environment Committee Meeting held on Monday 22 April 2013

- D1 Confirmation of Minutes of Meeting held on 8 April 2013
- D2 Draft Delivery Program 2013 to 2017 and Operational Plan 2013/14 - Referral of Goals 1, 2, 3, 5, 7 & 8 - Priorities and Actions



Council Meeting

**Minutes of the Meeting of Woollahra Municipal Council
held at the Council Chambers, Double Bay, on
Monday 13 May 2013 at 8.03pm.**

Present: His Worship the Mayor, Councillor Andrew Petrie
Councillors Ted Bennett
Anthony Boskovitz
Luise Elsing
Greg Levenston
Anthony Marano
Katherine O'Regan
Matthew Robertson
Deborah Thomas
Susan Wynne
Jeff Zulman

Staff: Allan Coker (Director – Planning & Development)
Stephen Dunshea (Director – Corporate Services)
Gary James (General Manager)
Tom O'Hanlon (Director – Technical Services)
Les Windle (Manager – Governance)

Also in Attendance: Nil

Confirmation of Minutes

Note: Late correspondence was tabled at the meeting from Maureen Hordern.

(Wynne/Thomas)

- 1/7 THAT the Minutes of the Council Meeting held on 22 April 2013 be taken as read and confirmed.

Adopted

(Boskovitz/Thomas)

- 2/7 THAT the Minutes of the Strategic and Corporate Committee Meeting held on 29 April 2013 be taken as read and confirmed.

Adopted

Leave of Absence

(Wynne/Robertson)

- 3/7 That leave of absence for all meetings of the Council and its Committees be granted to Councillor Deborah Thomas for the period Saturday 25 May 2013 to Wednesday 5 June 2013, inclusive.

Adopted

Apologies

(Wynne/Robertson)

- 4/7 Apologies were received and accepted from Councillors Peter Cavanagh & Elena Kirillova and Leave of Absence granted.

Adopted

Note: Leave of Absence has previously been granted to Councillors Elena Wise and Toni Zeltzer.

Declarations of Interest

In accordance with section 451(2) of the Local Government Act 1993 Councillors Ted Bennett, Anthony Boskovitz, Luise Elsing, Elena Kirillova, Matthew Robertson and Deborah Thomas submitted a "*Form of special disclosure of pecuniary interest*" in relation to Strategic and Corporate Committee Item R1 (Draft Woollahra Local Environmental Plan 2013).

Passing of Robin Brampton

The Mayor advised that he wished to acknowledge the passing of Robin Brampton.

The Mayor further advised:

Robin was a long serving and past President of the Queen Street West Woollahra Association (WSWWA) and without him it is doubtful, as a founding member, that this important Association would be still in existence.

I spent the early 90's listening to Robin (a well respected journalist and writer) and Graham Freudenberg (Gough Whitlam's speech writer) also a brilliant man, having real visions and how they would start up an association and call it the QSWWA. Robin was articulate and a gentleman.

The whole of Woollahra and especially the Queen Street area will miss him.

Petitions

Petition No: 1
From: Residents of Cascade Street, Paddington
Table by Councillor: Greg Levenston on behalf of Councillor Peter Cavanagh
File No: 884.G 2013, XR 87.

The Petition was in terms,

We, the residents of Cascade Street (between Paddington and Gurner/Hargrave Streets) wish to bring to your attention the following issues:

- *Parking in our street near our home is difficult and we regularly cannot find car parking spaces in Cascade Street.*
- *This section of Cascade Street is in an isolated pocket of Paddington Parking Zone 3 (in fact is wedged between zones 6 and 2) and the remainder of Zone 3 is a significant distance from Cascade Street, therefore it is not practical to park there.*
- *Until April 2012, Cascade Street residents were able to park in the unrestricted spaces in Windsor Street where it intersects with Cascade Street.*
- *However changes by Council at that time resulted in the rezoning of 11 unrestricted spaces to Zone 6 spaces.*
- *On any given day, regardless of time, it is always easier to find a park in Windsor Street than Cascade Street. Cascade Street fills up first given its closer proximity to William Street shops, pubs in Underwood Street and Oxford Street shops.*
- *A recent survey of residents in the area undertaken by Council and the solution proposed was flawed and did not provide a meaningful way to assist with a solution of this problem.*

Therefore, the undersigned residents ask Council to consider the following option:

To simplify the geographical boundaries of the 3 intersecting Resident Parking Schemes (RPS) by rezoning Cascade Street to Zone 6, thereby creating a single RPS Zone for both Windsor and Cascade Street residents.

Motion moved by Councillor Levenston
Seconded by Councillor Robertson

5/7 That the petition lie on the table for fourteen (14) days and be referred to the appropriate Council Officer for consideration.

Adopted

Mayoral Minute

Mayoral Minute No: 1

Subject: Metropolitan Mayors ' Association

Author: Cr Andrew Petrie, Mayor

File No: 61.G

Reason for Report: For Councillors to be made aware of the formation of this Group

(Levenston/Thomas)

6/7 Resolved:

That Woollahra Council give, in principle, support to the formation and membership of a Sydney Metropolitan Mayors' Association and advise Canterbury City Council of this decision.

On 10 April 2013 Mayors or Delegates from 14 Sydney metropolitan councils met at a forum hosted by the City of Canterbury to discuss the formation of a new peak body to represent the common interests of councils in the Sydney Metropolitan Area.

The Forum expressed concern over the effectiveness of Local Government NSW in its advocacy role and consultation with and on behalf of Sydney Metropolitan councils in a number of important areas, including Planning Reform, the Independent Review of Local Government, currently being conducted, the foreshadowed early intervention legislation and the Review of the Local Government Act.

The consensus of the forum was that Sydney Metropolitan Mayors should form an association that would focus on the Sydney metropolitan area and collaborate and consult with the Federal and NSW Governments to represent the common and emerging issues affecting councils in the Sydney metropolitan area on the future of this region.

The new body would be known as the Metropolitan Mayors' Association (MMA).

The Forum agreed:

1. The Councils of the Sydney metropolitan area share many common interests, including planning systems and regulations, infrastructure issues, economic development and the regulation of the local government sector.
2. The Councils of the Sydney metropolitan area want an efficient, consultative, cost effective and member focused organisation to coordinate action and advocacy on matters of shared interest.

The 14 Councils being broadly representative of NSROC, SHOROC and SSROC at the meeting agreed to submit a Mayoral Minute to their Council seeking a resolution for the purpose of forming the MMA.

I am aware that 8 Councils have passed resolutions in support of the proposed Association.

It is anticipated founding members will contribute \$2,000 each to contract an acting Executive Director to establish the organisation, draft the constitution, approach additional members and create an initial budget and business plan.

I would recommend Woollahra Council support the formation and membership of a Sydney Metropolitan Mayors' Association.

Cr Andrew Petrie
Mayor

Annexures:

Nil

Suspension of Standing Orders

Councillor Levenston

- 7/7 That Standing Orders be suspended to allow him to advise Council of the Waverley Council Returned Servicemen Commemoration for Russian Citizens ceremony he attended.

Adopted

The Mayor ruled Urgency and permitted the Suspension of Standing Orders.

Councillor Levenston advised:

I attended with the Mayor and Councillor Wynne the Waverley Council Returned Servicemen Commemoration for Russian Citizens ceremony. There are 22,500 Russian citizens living in Waverley. It was very well attended on a sunny day with more than 200 people. It was well received and we laid a wreath on behalf of Council.

The Council noted the information.

Councillor Thomas

- 8/7 That the Suspension of Standing Orders continue to allow her to advise Council of the Fair Trade Pop Up Store in Oxford Street.

Adopted

The Mayor ruled Urgency and permitted the continuation of the Suspension of Standing Orders.

Councillor Thomas advised:

I had the pleasure to represent the Mayor at the Fair Trade Pop Up Store in Oxford Street last Friday. It was attended by the Chair of Fair Trade Australia, Cheryle Kernot and it was a very successful event. In the Woollahra Municipal area we have over 14 stores that are signed up to Fair Trade, particularly through coffee and chocolate and some of them now with clothing. It's a great opportunity to have a pop up store like that in Oxford Street. It was a very successful event and I would like to see more of the pop up stores in Oxford Street and the Fair Trade philosophy going through our products.

The Council noted the information.

Councillor Wynne

- 9/7 That the Suspension of Standing Orders continue to allow her to advise Council of the Cancer Council Breakfast she attended last Thursday, thank the staff for the report on the new LEP and thank the staff involved in the preparation of next year's budget.

Adopted

The Mayor ruled Urgency and permitted the continuation of the Suspension of Standing Orders.

Councillor Wynne advised:

Last Thursday morning I attended the Cancer Council Breakfast which was hosted by the Scots and Kambala parents and I also was representing the Mayor at this event. I would like to make special mention of the person who organised the breakfast, Kristen Webster. She is a Kambala mother, she started this 10 years ago in her backyard and at that time she raised \$600. This time 10 years on she raised over \$50,000 and that is the most amount raised nationally in regards to these Cancer Council Breakfasts. What she has done is quite extraordinary. This year all the funds raised are going to research with regards to brain cancer. It was just such a pleasure to be part of this and it brought the community together. It was a reminder of what we take for granted and how blessed we are to have our health. To have someone in our municipality to create something like this and raise in excess of \$50,000 is quite extraordinary and I commend Kristen Webster on that.

The Council noted the information.

Councillor Wynne further advised:

Unfortunately I was not able to attend the Strategic and Corporate Committee last week but I read the report in regard to the changes in the LEP and I would like to commend the staff. I read the report front to back and spent a long time talking to Jacquelyne Della Bosca about it. It was an extraordinary document. It's a very difficult thing to try and put all that information in to something that we can all understand.

I want to commend our Director of Planning and Development and his staff for quite an extraordinary effort and ask that this be passed on to the staff.

The Council noted the information.

Councillor Wynne further advised:

To the Director of Corporate Services, we sat through the budget last week which is going on public exhibition and again I would like to commend the staff on this. It is a very difficult thing to produce, particularly in this economic environment and all the staff are commended. I would like the other Councillors who do not sit on that Committee to be aware of the effort that goes into this and the professionalism of the staff. We are very, very lucky to know that we have so dedicated staff.

The Council noted the information.

Councillor Robertson

- 10/7** That the Suspension of Standing Orders continue to allow him to advise Council of the Rose Bay Community Garden Trivia Night he attended last Friday.

Adopted

The Mayor ruled Urgency and permitted the continuation of the Suspension of Standing Orders.

Councillor Robertson advised:

I had the privilege of attending the Rose Bay Community Garden Trivia Night he attended last Friday. There was a big silent auction and a mass contribution of prizes from local businesses which was very good to see. To see the Vaucluse Bowling Club packed out because people want to contribute to something that is in their community is really something. But what also struck me was that through coordinating that event and through the actual garden and all of this activity involving people of different generations in the community is actually a real community building thing and I am really glad that our Council is supportive of it.

The Council noted the information.

Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Monday 6 May 2013 Submitted to the Council for Determination

Item No: R1 Recommendation to Council

Subject: **Holdsworth Community Centre Incorporated - Funding Agreement and Leases for the Woollahra Seniors & Community Centre and Holdsworth Community Centre**

Author: Kylie Walshe, Director Community Services

File No: 126.G, 148.334

Reason for Report: New Funding Agreement with Holdsworth Street Community Centre Woollahra Incorporated and Lease for Woollahra Seniors & Community Centre and Holdsworth Community Centre.

Note: Late correspondence was tabled at the meeting from Maureen Hordern – (2 pieces) and Jan Martin – (2 pieces).

(O'Regan/Wynne)

11/7 Resolved without debate:

- A. That Council adopt the revised Funding Agreement with Holdsworth Street Community Centre Woollahra Incorporated and Holdsworth Family Services Incorporated, incorporating the activities at the Woollahra Seniors & Community Centre, effective 1 July 2013.
- B. That Council exhibit the proposed lease of the Woollahra Seniors & Community Centre and Holdsworth Community Centre for 28 days as per Section 46 and Section 47 of the Local Government Act and that all objectors be notified of the conditions of the proposed lease.
- C. That the following changes as proposed in the late correspondence be made:
 - Holdsworth must:
 - only use the outdoor deck (including for the setting up and removal of tables and chairs) during the following hours:
 - a) 8am to 4pm Monday to Friday
 - b) 10am to 4pm Saturday, Sunday and Public Holidays
 - not use amplification of any sort on the outdoor deck at any time
 - remove all outdoor furniture from the deck at the completion of each day of use.
 - The outdoor deck may also be used between 4pm to 6pm Monday to Sunday for community services activities only, on the condition that there is no amplified music in the centre at all at this time.
 - Council reserves the right to limit the hours of use of the outdoor deck after 4pm at any time, taking into consideration any complaints received.
 - No Smoking sign be included on the deck.

Item No: R2 Recommendation to Council
Subject: **Paddington Library Agreement**
Author: Corinna Pierce, Library Customer Service Team Leader and Vicki Munro, Manager, Library & Information Service
File No: 659.G
Reason for Report: This report seeks Council's endorsement to finalise the negotiations for the Paddington Library Agreement with City of Sydney Council, for the period 1 January 2013 to 30 June 2015.

Motion moved by Councillor Boskovitz

That consideration of the matter be deferred and a further report be submitted to the Committee in relation to the following:

1. usage figures of the library,
2. the number of members that come from the Woollahra Municipality,
3. further information in relation to the negotiations with Sydney City Council.

Councillor Boskovitz withdrew the Motion

(O'Regan/Wynne)

12/7 Resolved:

That Council authorise the General Manager to finalise negotiations and enter into an agreement with City of Sydney Council for Paddington Library, for the period 1 January 2013 to 30 June 2015 with details as set out in this report.

Item No: R3 Recommendation to Council
Subject: **Draft 2013/14 Budget**
Author: Don Johnston, Manager Finance
File No: 331.G 2013/14
Reason for Report: To present the Draft 2013/14 Budget to the Committee.

(O'Regan/Wynne)

13/7 Resolved without debate:

- A. THAT the report on the Draft 2013/14 Budget be received and noted.
- B. THAT the Draft Budget be incorporated into the Delivery Program 2013 to 2017 and 2013/2014 Operational Plan for the purpose of public exhibition.
- C. THAT Council note the inclusion of an Action in the draft Operational Plan 2013/14 stating Council's intention to undertake targeted community consultation in 2013/14 in relation to the review of its long term financial plan and potential special rate variation application to IPART for 2014.

Item No: R4 Recommendation to Council

Subject: **Revised Community Strategic Plan – Woollahra 2025 and Draft Delivery Program 2013 to 2017 and Operational Plan 2013/14**

Author: Helen Tola - Governance & Corporate Planning Coordinator
Stephen Dunshea - Director Corporate Services

File No: 1229.G 2013 to 2017

Reason for Report: To present the revised Community Strategic Plan - Woollahra 2025 and draft Delivery Program 2013 to 2017 and Operational Plan 2013/14 with a recommendation that the documents be placed on public exhibition for a period of 28 days.

(O'Regan/Wynne)

14/7 Resolved without debate:

- A. THAT Council note the Urban Planning and Community & Environment Committees' endorsement of the Priorities and Actions proposed for inclusion in the draft Delivery Program 2013 to 2017 and Operational Plan 2013/14.
 - B. THAT the revised Community Strategic Plan – *Woollahra 2025* and draft Delivery Program 2013 to 2017 and Operational Plan 2013/14, be placed on concurrent public exhibition for a period of 28 days in accordance with the requirements of Sections 404 and 405 of the *Local Government Act 1993*, commencing on Wednesday 15 May 2013.
 - C. THAT Council note that information relating to Council's draft 2013/14 draft Budget and other relevant financial information will be incorporated into the draft Delivery Program 2013 to 2017 and Operational Plan 2013/14 prior to public exhibition.
 - D. THAT a further report be presented following the public exhibition period advising of any submissions received in relation to revised *Woollahra 2025* and draft Delivery Program 2013 to 2017 and Operational Plan 2013/14.
-

Development Control Committee

Items with Recommendations from the Committee Meeting of Monday 6 May 2013 Submitted to the Council for Determination

Item No: R1 Recommendation to Council

Subject: 63 William Street, Paddington – Unauthorised works – external painting of buildings in sky blue, replacement of double hung windows on ground floor with full glass windows – 13/02/2013

Author: Zarndra Piper – Assessment Officer

File No: DA39/2013

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 to the Officer’s recommendation.

Note: Late correspondence was tabled at the meeting from George Karavanas, Keri Huxley – (2 pieces), Monica Taylor, John Angus & The Paddington Society.

Motion moved by Councillor Wynne
Seconded by Councillor Elsing

That the staff recommendation submitted to the Development Control Committee for refusal of the application and removal of the unauthorised works be adopted.

Amendment moved by Councillor Robertson
Seconded by Councillor Thomas

That the recommendation from the Development Control Committee for refusal of the application and that Council take no action to require removal of the unauthorised works subject to conditions be adopted.

The Amendment was put and lost
The Motion was put and adopted

(Wynne/Elsing)

15/7 Resolved:

THAT Council, as the consent authority, refuse development consent to Development Application 39/2013/1 for unauthorised works: external painting of building in sky blue; replacement of double hung windows on ground floor with full glass windows on land at 63 William Street Paddington for the following reasons:

PART A

THAT Council, as the consent authority, refuse development consent to Development Application 39/2013 for unauthorised works: external painting of building in sky blue; replacement of double hung windows on ground floor with full glass windows on land at 63 William Street Paddington, for the following reasons:

1. Aims and objectives of the WLEP 1995 and zone

The unauthorised works do not comply with Clause 8(5) of the Woollahra Local Environmental Plan which prescribes that Council shall not grant consent to development unless it is satisfied that the proposal is consistent with the aims and objectives of the Woollahra LEP 1995. In particular, the unauthorised works not comply with objective:

Part 1 – Clause 2 (2) (g) (ii) ... *“to ensure that new development is undertaken in a manner that is sympathetic to and does not detract from the heritage significance of heritage items and their settings and of heritage conservation areas”*

In addition, the unauthorised works do not comply with clause 28(2) of the Woollahra LEP 1995 which in relation to heritage conservation requires that new development be undertaken in a manner that is sympathetic to and does not detract from the heritage significance of the heritage conservation area.

2. Principal building form and street front zone of significant buildings (Part 4.1.1)

The unauthorised work is non-compliant with the following objectives and control of Part 4.1.1 of the Paddington Heritage Conservation Area Development Control Plan 2008:

Objectives: O1, O5, O6, O7, O8 and O10.
Controls: C1, C2 and C11.

3. Side elevations to streets and lanes (Part 4.1.2)

The unauthorised work is non-compliant with the following objectives and control of Part 4.1.2 of the Paddington Heritage Conservation Area Development Control Plan 2008:

Objective: O1.
Control: C1.

4. Windows, doors, shutters and security (Part 4.2.3)

The unauthorised work is non-compliant with the following objectives and control of Part 4.2.3 of the Paddington Heritage Conservation Area Development Control Plan 2008:

Objectives: O1, O2 and O3.
Control: C1 and C2.

5. Materials, finishes and details (*Part 4.2.8*)

The unauthorised work is non-compliant with the following objective and controls of Part 4.2.8 of the Paddington Heritage Conservation Area Development Control Plan 2008:

Objective: O1, O2 and O3.

Controls: C1 and C4.

6. Exterior colours (*Part 4.2.9*)

The unauthorised work is non-compliant with the following objective and controls of Part 4.2.9 of the Paddington Heritage Conservation Area Development Control Plan 2008:

Objective: O1.

Controls: C1 and C5.

7. The public interest

The unauthorised work is unacceptable against the relevant considerations under s79C and would not be in the public interest.

PART B (Note: This Part of the Resolution was amended at the Council Meeting on 27 May 2012 – See Minute No 16/8)

THAT the unauthorised works are to be removed and the following remedial works are required to be undertaken within 28 days of the date of this determination:

- the ground floor windows to the front façade and side elevation be reconstructed to timber double-hung sash windows, and
- the colour scheme be revised to a traditional colour, or colours of a hue, tone and intensity to match traditional colours.

PART C

THAT this matter be referred to the Manager – Compliance to take appropriate action under Part 6 of the Environmental Planning and Assessment Act 1979 in accordance with Council's Enforcement Policy for failure to obtain Council's consent prior to carrying out the unauthorised works.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Councillor Wynne
Councillor Zulman
Councillor Levenston
Councillor Marano
Councillor O'Regan
Councillor Elsing
Councillor Petrie

7/4

Against the Motion

Councillor Boskovitz
Councillor Robertson
Councillor Thomas
Councillor Bennett

Item No: R2 Recommendation to Council

Subject: **232 Old South Head Road, Vacluse – Alterations and additions to existing residential flat building – 08/11/2010**

Author: Eleanor Smith – Senior Assessment Officer

File No: DA601/2010

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 Officer’s recommendation (approval).

Note: Late correspondence was tabled at the meeting from George Karavanas, Professor Richard Johnson & Geoff Farland.

Motion moved by Councillor Boskovitz

That the staff recommendation submitted to the Development Control Committee for approval of the application be adopted.

The Motion lapsed for the want of a seconder

Motion moved by Councillor Robertson
Seconded by Councillor Elsing

That the recommendation from the Development Control Committee for refusal of the application be adopted.

Amendment moved by Councillor Wynne
Seconded by Councillor Thomas

That Development Application No. 601/2010 for alterations and additions to existing residential flat building on land at 232 Old South Head Road, Vacluse, be deferred to enable the applicant to consider and submit revised plans to address the following:

1. amend the design of the upper level addition to be accommodated within a dormer type design
2. the amended design is to maintain the existing pitched roof form as presented to the street, whilst enabling the ridge height to be increased to RL84.24
3. the incorporation of dormers are to be to the side roof planes.
and that the revised plans are to be submitted to Council within 6 months.

The Amendment was put and carried
The Amendment became the Motion
The Motion was put and Adopted

(Wynne/Thomas)

16/7 Resolved:

That Development Application No. 601/2010 for alterations and additions to existing residential flat building on land at 232 Old South Head Road, Vaucluse, be deferred to enable the applicant to consider and submit revised plans to address the following:

1. amend the design of the upper level addition to be accommodated within a dormer type design
2. the amended design is to maintain the existing pitched roof form as presented to the street, whilst enabling the ridge height to be increased to RL84.24
3. the incorporation of dormers are to be to the side roof planes.

and that the revised plans are to be submitted to Council within 6 months.

- Item No:** R3 Recommendation to Council
- Subject:** **18, 18A & 20 Albert Street, Edgecliff – Subdivision of existing sites to enable construction of 2 residential flat buildings containing 6 units with basement car parking for 16 vehicles, new swimming pool, landscaping, site works and alterations and additions to existing buildings – 24/08/2012**
- Author:** Dimitri Lukas – Senior Assessment Officer
- File No:** DA347/2012
- 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 Officer’s recommendation (approval).
- Note:** Late correspondence was tabled at the meeting from Jeffrey Lees, Lady Pagan & Nichola Pagan, John Comino (2 pieces), Sarah Blacker, Pamela Susan Gazal & John Rickard (2 pieces).

**Motion moved by Councillor Marano
Seconded by Councillor Bennett**

That the staff recommendation submitted to the Development Control Committee for approval of the application be adopted subject to the following amendments:

1. Modification of Condition No. A.7 (Development Consent is not granted in relation to these matters) and addition of Condition No. C.1(f) (Modification of details of the development (s80A(1)(g) of the Act)) to delete the swimming pool.
2. Modification of Condition No. B.2 (Establishment of Tree Protection Zones (TPZ)) to protect the tree between the subject development site and No 434-436 Edgecliff Road, Edgecliff
3. Addition of Condition No. C.1(e)(f) (Modification of details of the development (s80A(1)(g) of the Act)) to require all balconies to be fitted with fixed screen louvers angled upwards at 30 degrees.
4. Modification of Condition No. D.4 (Construction Management Plan) to require that trucks do not stand or park on Albert Street, Edgecliff
5. Addition of Condition No. E.26 (Protection of Retaining Wall) to protect and restore the existing brick wall between the subject development site and No 438-440 Edgecliff Road, Edgecliff.

Amendment moved by Councillor Robertson

That the recommendation from the Development Control Committee for refusal of the application be adopted.

The Amendment lapsed for the want of a seconder

**Amendment moved by Councillor Levenston
Seconded by Councillor Wynne**

That the staff recommendation submitted to the Development Control Committee for approval of the application be adopted.

The Amendment was put and lost
The Motion was put and adopted

(Marano/Bennett)

17/7 Resolved: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act 1979

THAT the Council, as the consent authority, is of the opinion that the objections under State Environmental Planning Policy No. 1 for the development standards for Site Frontage and Floor Space Ratio [DM1] under Clause 10B(2)(b) and 11(1) respectively of Woollahra LEP 1995 are well founded. The Council is also of the opinion that strict compliance with the development standards is unreasonable and unnecessary in the circumstances of this case.

AND

THAT the Council, as the consent authority, being satisfied that the objections under SEPP No.1 are well founded and also being of the opinion that it is consistent with the aims of the Policy, grant development consent to Development Application No. 347/2012 for subdivision of existing sites to enable construction of 2 residential flat buildings containing 6 units with basement car parking for 16 vehicles, new swimming pool, landscaping, site works and alterations and additions to existing buildings on land at 18, 18A and 20 Albert Street, Edgecliff, 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:

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- 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:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piling, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- 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)
01A; 03A to 13A inclusive; 17A to 20A inclusive*	Architectural Plans	Shobha Designs	14.08.2012 19.10.2012*
432450M A140339*	BASIX Certificate	Department of Planning	20.06.2012 14.06.2012*
03B & 11B	Ramp Details	Shobha Designs	26.09.2012
02A	Demolition & Waste Management Plan	Shobha Designs	14.08.2012
P1102979JR01V02	Geotechnical & Hydrogeological Assessment	Martens Consulting Engineers	June 2012
LA01B & LA02A	Landscape Plan		15.08.2012
13176	Arboricultural Impact Assessment	Urban Tree Management	04.06.2012
1249-Revision B	Building Code of Australia Compliance Report	James Alexander & Associates Pty Ltd	May 2012
2 x A4 Sheets	Schedule of External Finishes	Shobha Designs	N/A
Final	Access Review	Morris-Goding Accessibility Consulting	07.06.2012
P1102979JR02V02	Stormwater and Soil Water Management Assessment	Martens Consulting Engineers	June 2012
Plan Form 6, Plan Form 2(A2) Sheets 1/2 & 2/2 Issue 1; and, *Strata Plan Form 3 (Part 1) Sheets 1/3 to 3/3, Sheets 1/6 to 6/6 Issue 2	Subdivision Plans	Gerard Junek (Surveyors Reference 22837)	02.08.2012 01.08.2012*
10258; and, 10258*	Traffic Report	Transport and Traffic Planning Associates	July 2012 27.09.2012*
N/A	Site Waste Minimisation and Management Plan	Tatby Pty Ltd	28.08.2012

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

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

Standard Condition: A5

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

The owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's "Specification for Roadworks, Drainage and Miscellaneous Works" dated February 2012 unless expressly provided otherwise by these conditions at the *owner's* expense.

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

Standard Condition: A8

A.5 Deferred Commencement Condition - State Environmental Planning Policy (Infrastructure) 2007

This consent is not to operate until the Applicant satisfies the Council, within 12 months of the date of this consent that it has obtained approval/certification from RailCorp of the following matters and the approval/certification has been forwarded to the Council.

The Applicant shall prepare and provide to RailCorp for approval/certification the following items:

- a) Final Geotechnical and Structural report/drawings that meet RailCorp's requirements. The Geotechnical Report must be based on actual borehole testing.
- b) The type, location and depth of foundations as well as their design stresses are to be provided.
- c) Final Construction methodology with construction details pertaining to structural support during excavation based on the Geotechnical Report.
- d) Final cross sectional drawings showing ground surface, tunnel easement, sub soil profile, proposed basement excavation and structural design of sub ground support. All measurements are to be verified by a Registered Surveyor.
- e) An Engineers Report on the effects of the development on the rail tunnel.
- f) If required by RailCorp, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.

Any conditions issued as part of RailCorp's approval/certification of the above documents will also form part of the consent conditions that the Applicant is required to comply with.

A.6 Conditions of Concurrence - State Environmental Planning Policy (Infrastructure) 2007

- a) Prior to the issuing of an Occupation Certificate the Applicant is to submit the as-built drawings to RailCorp and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into RailCorp property or easement.
- b) The Principle Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.
- c) If required by RailCorp, prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project (eg rail tunnel) is to be carried out by representatives from RailCorp and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by RailCorp.
- d) An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".
- e) Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principle Certifying Authority with the application for a Construction Certificate.

A.7 Development Consent is not granted in relation to these matters

This approval does not give consent to:

- a) The pedestrian access door and stairs that link the basement garage of the residential flat building with No.22 Albert Street; and
- b) The swimming pool.

A separate Development Consent or Complying Development Certificate and Part 4A Certificates, as appropriate, will need to be obtained prior to the such development work commencing.

Standard Condition: A9

A.8 Excavation

In order to clearly define the setback of the excavation from the boundary approved by this consent, the outer edge of excavation from a boundary (inclusive of the width of any subsurface wall shown on the approved plans) must not be exceeded for piling, retention or for any other construction or engineering reason (including BCA standards).

Standard Condition: A29

B. Conditions which must be satisfied prior to the demolition of any building or construction**B.1 Construction Certificate required prior to any demolition**

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

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

Standard Condition: B1

B.2 Establishment of Tree Protection Zones (TPZ)

Tree Protection Zones shall be established around all trees to be retained and in accordance with Section 4 of the *Australian Standard Protection of Trees on Development Sites* (AS 4970- 2009). Tree protection zones must also comply with the following requirements:

- a) Tree Protection Zone areas

Council Ref No	Species	Location	Radius from Centre of Trunk (metres)*
2	<i>Washingtonia robusta</i> (Mexican Fan palm)	Rear – North east	4
7	5 x <i>Cupressus torulosa</i> (Bhutan Cypress) as hedge	Rear – West boundary	2.5
	Unidentified	Property of No.434-436 Edgecliff Road	

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

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being brought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) Trunk protection shall be installed around the trunks of the following trees:

Council Ref No	Species
2	<i>Washingtonia robusta</i> (Mexican Fan palm)

Trunk protection shall consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or similar) shall be placed over the padding and around the trunk of the tree at 150mm centres. The planks shall be secured with 8 gauge wire at 300mm spacing. Trunk protection shall extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

- d) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- e) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- f) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent. Appropriate ground protection shall be installed under the supervision of the site arborist.
- g) All site personnel and contractors must be made aware of all tree protection requirements associated with these conditions of consent.
- h) The project arborist shall provide written certification of compliance with the above condition.

Standard Condition: B5

B.3 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No:	Species	Radius from Trunk (metres)	Approved works
2	<i>Washingtonia robusta</i> (Mexican Fan palm)	1	Pool paving

The project arborist shall provide written certification of compliance with the above condition.

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

- a) The driveway ramp labelled as “Ramp 3” on the Architectural Plan DA11 Revision B must be revised to provide a transition grade at the crest of the ramp with all gradients and transitions complying with AS 2890.1.
- b) The splays at the end of the exit ramp to Karoola Lane must be widened to comply with the Australian Standard 2870.1.
- c) The balustrade to the terraces and balconies to Units 1, 2 and 4 (as noted on the approved drawings) must be solid (ie. non-transparent).
- d) All references to the pedestrian access door and stairs that link the basement garage of the residential flat building with No.22 Albert Street must be deleted.
- e) All balconies must be fitted with fixed screen louvers angled upwards at 30degrees.
- f) All references to the swimming pool must be deleted

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 Long Service Levy, Security, Contributions and Fees

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 prior to the issue of a *construction certificate, subdivision certificate or occupation certificate*, as will apply.

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY			
under Building and Construction Industry Long Service Payments Act 1986			
Long Service Levy http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm	Contact LSL Corporation or use 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 Council	\$160,590.00	No	T115
DEVELOPMENT LEVY			
under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au .			
Development Levy (Section 94A)	\$75,500.00 + Index Amount	Yes, quarterly	T96

INSPECTION FEES under Section 608 of the Local Government Act 1993			
Public Road/Footpath Infrastructure Inspection Fee	\$435.00	No	
Security Administration Fee	\$185.00	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$236,710.00 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

The Long Service Levy under Section 34 of the *Building and 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*. 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 the Long Service Payments Corporation on 13 14 41.

How must the payments be made?

Payments must be made by:

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

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

- The guarantee is by an Australian bank for the amount of the total outstanding contribution;
- The bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable];
- 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;
- The bank guarantee is lodged with the Council prior to the issue of the construction certificate; and
- The bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

How will the section 94A levy be indexed?

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2011 sets out the formula and index to be used in adjusting the s.94A levy.

Do you need HELP indexing the levy?

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

Deferred or periodic payment of section 94A levy under the Woollahra Section 94A Development Contributions Plan 2011

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

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

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

- The guarantee is by an Australian bank for the amount of the total outstanding contribution;
- The bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable];
- 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;
- The bank guarantee is lodged with the Council prior to the issue of the construction certificate; and
- The bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

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

Standard Condition: C5

C.3 BASIX commitments

The *applicant* must submit to the Certifying Authority BASIX Certificates No.432450M and A140339 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 State Environmental Planning Policy 65 – Design Verification Statement

Pursuant to Clause 143A of the *Regulation* a *Certifying Authority* must not issue a *Construction Certificate* for residential flat development unless the *certifying authority* has received a *design verification statement* from a *qualified designer*, being a statement in which the *qualified designer* verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of SEPP 65: Design Quality of Residential Flat Development.

Note: Although a certifying authority may pursuant to clause 161(2) of the Regulation be satisfied to any matter that relates to the external finish of a building the specific provisions of clause 143A of the Regulation overrides the Certifying Authority's powers under clause 161(2). No certifying authority can set aside this requirement.

Note: Qualified designer means a person registered as an architect in accordance with the Architects Act 2003. There are several methods of verifying the status of an individual or corporation or firm offering architectural services.

Ask the individual for their four digit NSW Architects Registration Number, ask a corporation or firm for the name and registration number of their “nominated architect”, check to see whether an individual is listed on the NSW Register of Architects or the corporation or firm is listed on the List of architect corporations and firms on the Board’s website www.architects.nsw.gov.au, contact the Architects Board’s staff to check the status of an individual or corporation or firm.

Standard Condition: C11

C.5 Road and Public Domain Works

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by, Council for the following infrastructure works prior to the issuing of any Construction Certificate. The infrastructure works must be carried out at the applicant's expense:

- a) The full removal of the existing vehicle crossing fronting Lincoln Place
- b) The construction of a full width vehicular crossings having a width of 4.7m in accordance with Council’s standard driveway drawing RF2B.
- c) A design longitudinal surface profile for the proposed driveway must be submitted for assessment.

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

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

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

Note: See *Section K - Roads Act Application*.

Standard Condition: C13 (Autotext CC13)

C.6 Waste Storage - Residential Units (more than four units)

The *Construction Certificate* plans and specifications required by clause 139 of the Regulation must include detailed plans and specifications must make provision for:

- a) The storage of waste and recycling bins behind the building line or within non-habitable areas of the building as close as possible to the service road collection point,
- b) A path for wheeling bins between the waste and recycling storage area and the collection point free of steps and kerbs and having a maximum grade of 1:8.

Standard Condition: C17

C.7 Waste Storage - Compliance with Approved Site Waste Minimisation and Management Plan (SWMMP)

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail provisions for waste management in accordance with the approved SWMMP.

Waste Storage Areas must meet the following requirements:

- a. Bins must be stored with lids down to prevent vermin from entering the waste containers.
- b. The area must be constructed with a smooth impervious floor graded to a floor waste. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water.
- c. Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter.
- d. The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use.
- e. Odour problems must be minimised by good exhaust ventilation.
- f. Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room.
- g. Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay.

Standard Condition: C19

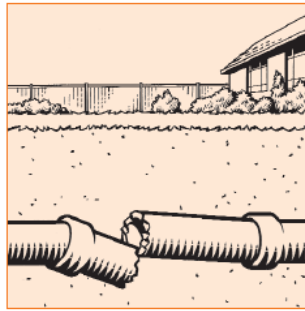
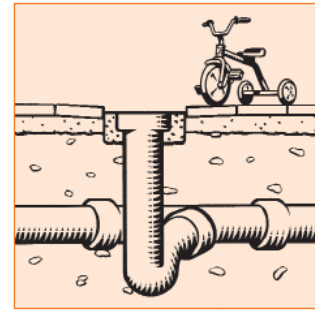
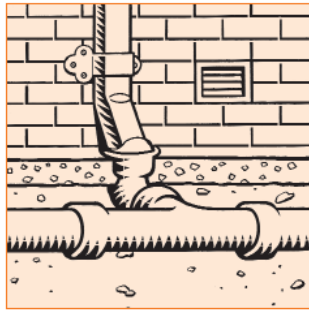
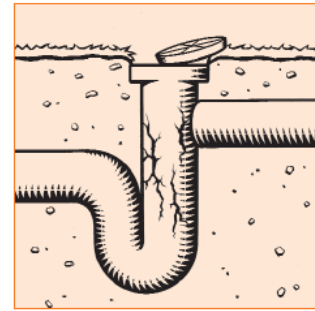
C.8 Water and waste water - Section 73 Developers Certificate and Upgrading of existing system (Clause 25(1) WLEP 1995)

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. The effect of this certificate is that adequate provision has been made or is available for the provision of potable water to and the removal of waste water from the development.

Note: Following application to Sydney Water, a 'Notice of Requirements' will detail water and sewer extensions to be built and charges to be paid. Please make early contact with Sydney Water's authorised Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

Note: Applications must be made through an authorised Water Servicing Coordinator. For help either visit <http://www.sydneywater.com.au/BuildingDeveloping/DevelopingYourLand/WaterServicingCoordinators.cfm> or telephone 13 20 92.

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

*Cracked pipes**Broken pipes**Damaged or low-lying gullies**Direct stormwater connections**Hidden or damaged maintenance holes**Hidden or damaged inspection points*

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

<http://www.sydneywater.com.au/Publications/Factsheets/SewerfixLookingAfterYourSewerPipes.pdf>

Standard Condition: C22

C.9 Checking Construction Certificate plans & protecting assets owned by the Sydney Water Corporation

The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and any requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site www.sydneywater.com.au for:

- Quick Check agents details – see Building and Development then Quick Check and
- Guidelines for Building Over/Adjacent to Sydney Water Assets – see Building and Development then Building and Renovating

Note: Further information can be obtained from the Sydney Water Corporation by visiting their web site: <http://www.sydneywater.com.au> or telephone 13 20 92.

Standard Condition: C24

C.10 Soil and Water Management Plan – Submission & Approval

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

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

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

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

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

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

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

C.11 Structural Adequacy of Existing Supporting Structures

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

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

C.12 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.13 Geotechnical and Hydrogeological Design, Certification & Monitoring

The *Construction Certificate* plans and specification required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation* must be accompanied by a *Geotechnical / Hydrogeological Monitoring Program* together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a *professional engineer*, who is suitably qualified and experienced in geotechnical and hydrogeological engineering. These details must be certified by the *professional engineer* to:

- a) Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure.
- b) Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).
- c) Provide foundation tanking prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time.
- d) Provide tanking of all below ground structures to prevent the entry of all ground water such that they are fully tanked and no on-going dewatering of the site is required.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
 - Will detect any settlement associated with temporary and permanent works and structures;
 - Will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like);
 - Will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity);
 - Will detect groundwater changes calibrated against natural groundwater variations;
 - Details the location and type of monitoring systems to be utilised;
 - Details the preset acceptable limits for peak particle velocity and ground water fluctuations;
 - Details recommended hold points to allow for the inspection and certification of geotechnical and hydro-geological measures by the professional engineer; and;
 - Details a contingency plan.

Standard Condition: C40

C.14 Ground Anchors

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

The use of permanent ground anchors under Council land is not permitted.

Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.

If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the *Roads Act* 1993. Application forms and Council's "Rock Anchor Policy" are available from Council's web-site <http://www.woollahra.nsw.gov.au>. Approval may be granted subject to conditions of consent. Four weeks should be allowed for assessment.

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

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

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

Standard Condition: C41

C.15 Parking Facilities

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

The driveway levels on Albert Street are to be amended as follows:

- a) The existing footpath level and grade at the street alignment of the property must be maintained.
- b) The internal garage floor slab or ramp is to be adjusted on private property to match the existing street alignment levels.
- c) Any adjustments required between the garage slab or ramp and the street levels are to be carried out internally on private property. The driveway levels are to comply with AS2890.1 and Council's Standard Drawing RF2.
- d) The driveway ramp labelled as "Ramp 3" on the Architectural Plan DA11 Revision B must be revised to provide a transition grade at the crest of the ramp with all gradients and transitions complying with AS 2890.1.
- e) The splays at the end of the exit ramp to Karoola Lane must be widened to comply with the Australian Standard 2870.1.

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

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

Standard Condition: C45

C.16 Stormwater management plan

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

- a) General design in accordance with the Stormwater and Soil Management Assessment by Martens Consulting Engineers, dated June 2012 with reference P1102979JR02V02 other than amended by this and other conditions;
- b) The discharge of stormwater, by direct connection, to Edgecliff Road via the existing downstream easement;
- c) Compliance the objectives and performance requirements of the BCA;
- d) Any rainwater tank (see Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System, and
- e) General compliance with the Council's draft Development Control Plan Stormwater Drainage Management (Draft Version 1.1, Public Exhibition Copy dated 14 December 2006), and
- f) On-site stormwater detention (OSD) and Rainwater Storage Tank (RST).

OSD Requirements

The minimum (OSD) Site Storage Requirements ("SSR") and the Peak Site Discharge ("PSD") from the site must be in accordance with the following minimum storage/discharge relationships based upon a 1000m² site area:

Average Recurrence Interval	PSD (L/s)	Minimum Site Storage Requirement (SSR) m ³
2 year	23.5 L/s	4m ³
100 year	34 L/s	27m ³

Note: All values based on per 1000m² site area (interpolate to site area).

Where a rainwater tank is proposed in conjunction with OSD, the volume of the rainwater tank may contribute to the SSR as follows:

- a) Where the rainwater tank is used for external uses only, 40% of the rainwater tank volume to a maximum of 4m³, or
- b) Where the rainwater tank is used for external and internal uses, 75% of the rainwater tank volume to a maximum of 7.5m³.

Where a Rainwater Storage Tank (**RST**) only is agreed to by Council with no OSD, the requirements are as follows:

- a) The rainwater tank is to be used for all external use such as irrigation for landscaping, gardening, washdown of areas, swimming pool top up etc and internal uses for toilet flushing etc the capacity of the Rainwater Storage Tank is 150% of the SSR as set out for OSD

Example: The Site Storage Requirements may be 25,000 litres and a 10,000 litre rainwater tank is to be used for garden irrigation. Therefore, the rainwater tank contributes 4,000 litres toward SSR. Therefore, the OSD tank needs to be 21,000 litres (25,000 litres less the 4,000 litres allowance). Note: 1m³ = 1,000 litres.

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

Layout plan

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

It must include:

- The location of the existing *Stormwater Drainage System* including all pipes, inspection openings, surface drains, pits and their discharge location,
- The state of repair of the existing *Stormwater Drainage System*,
- Any remedial works required to upgrade the existing *Stormwater Drainage System* to comply with the BCA,
- All pipe layouts, dimensions, grades, lengths and material specification,
- Location of any water storage
- All invert levels reduced to Australian Height Datum (AHD),
- Location and dimensions of all drainage pits,
- Point and method of connection to Councils drainage infrastructure, and
- Overland flow paths over impervious areas.
- Subsoil Drainage - Subsoil drainage details, clean out points, discharge point.

On-site Detention (OSD) and Rainwater Storage Tank (RST) details:

- Any potential conflict between existing and proposed trees and vegetation,
- Internal dimensions and volume of the proposed storage,
- Diameter of the outlet to the proposed detention storage basin,
- Plans, elevations and sections showing the storage basin invert level, centre-line level of outlet, top water level, finished surface level and adjacent structures,
- Details of access and maintenance facilities,
- Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,
- Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage/failure,
- Non-removable fixing details for orifice plates where used for OSD

Copies of certificates of title, showing the creation of private easements to drain water by gravity, if required.

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

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.
Standard Condition: C51

C.17 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

C.18 Swimming and Spa Pools – Backwash

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the Regulation must detail the connection of backwash to Sydney Waters sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: The plans must show the location of Sydney Waters sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: The discharge of backwash water to any stormwater system is water pollution and an offence under the *Protection of the Environment Operations Act 1997*. The connection of any backwash pipe to any stormwater system is an offence under the *Protection of the Environment Operations Act 1997*.
Standard Condition: C56

C.19 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Mechanical ventilation to the basement car-park must comply with the following:

- a) The basement car park, in which vehicles powered by internal combustion engines are to be parked, is required to comply with Section 4 ‘Ventilation of Enclosures used by Vehicles with Internal Combustion Engines’ of Australian Standard 1668.2-1991. In general air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.
- b) The basement car park must be naturally ventilated or provided with a combination of both supply and exhaust mechanical ventilation. The applicant is to determine the method of ventilation of the basement car park and provide details to the *Certifying Authority* accordingly. Except as varied in accordance with Clause 4.4.1 (a), (b) or (c), the vehicle basement car park shall be mechanically ventilated by a combination of general exhaust with flow rates in accordance with Clause 4.4.2, and supply with flow rates specified in Clause 4.8 of Australian Standard 1668.2-1991.

- c) The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail all mechanical ventilation systems serving the basement carpark complying with the Building Code Australia 2007 and AS 1668.1, AS 1668.2 and AS/NZS 3666.1. If an alternate solution is proposed then the Construction Certificate application must include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert evidence of suitability. This condition does not set aside the mandatory requirements of the Public Health (Microbial Control) Regulation 2000 in relation to regulated systems. This condition does not set aside the effect of the Protection of the Environment Operations Act 1997 in relation to offensive noise or odour.

Note: Clause 98 of the Regulation requires compliance with the BCA. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the Construction Certificate application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).

Standard Condition C59

C.20 Sound Attenuation of mechanical plant and equipment, car-park ventilation, air-conditioning plant, lift motor room plant and swimming pool equipment

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must detail the sound attenuation works required to ***all mechanical plant and equipment*** to ensure that the noise level measured at any boundary of the site at any time while the proposed ***mechanical plant and equipment*** is operating will not exceed the *background noise level* when measured at any boundary of the site.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed.

Note: Further information including lists of Acoustic Engineers can be obtained from:

1. **Australian Acoustical Society**—professional society of noise-related professionals ([www.acoustics.asn.au /index.php](http://www.acoustics.asn.au/index.php)).
2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals (www.aaac.org.au).

Standard Condition: C61

C.21 Design sound levels for building interiors

The *Construction Certificate* plans and specifications required by clause 139 of the *Regulation* must include detail the design sound levels for building interiors. The noise level must not exceed those recommended maximum design sound levels, LAeq, dB(A) specified by AS 2107-2000, *Acoustics - Recommended design sound levels and reverberation times for building interiors*.

Note: The design sound levels given in AS 2107-2000 are not necessarily appropriate in all circumstances. In particular, lower noise levels may be appropriate in quiet environments or where expectations of quality are high. For example, lower design sound levels than those given as satisfactory in AS 2107-2000 may be preferred for luxury hotels and apartments. However, additional costs will be incurred in achieving sufficient sound attenuation between spaces for acoustic privacy requirements. For each 5 dB reduction in the ambient sound level, 5 dB must be added to the overall sound isolation performance of the dividing elements to maintain the same level of acoustic privacy. There could also be additional costs associated with the provision of quieter building services. As a minimum compliance with the *BCA* is mandatory.

Standard Condition: C63

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 *the Home Building Regulation 2004*,
- 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.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.

Standard Condition: D1

D.2 Dilapidation Reports for existing buildings

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

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

- a) 14 Albert Street, Edgecliff
- b) 16-18 Albert Street, Edgecliff
- c) 22 Albert Street, Edgecliff
- d) 434-436 Edgecliff Road, Edgecliff

- e) 438 Edgecliff Road, Edgecliff
- f) 440 Edgecliff Road, Edgecliff
- g) 442-446 Edgecliff Road, Edgecliff
- h) The retaining wall to the rear of No.18 & 18A Albert Street

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

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

Note: The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land

Also refer to the Dilapidation Report Advising for more information regarding this condition

Standard Condition: D4

D.3 Adjoining buildings founded on loose foundation materials

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

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

Standard Condition: D6

D.4 Construction Management Plan

As a result of the site constraints, limited space and access a Construction Management Plan is to be submitted to Council. Also, due to the lack of on-street parking a Work Zone may be required during construction.

A construction management plan must be submitted and approved by Council's Development Engineer. The plan must:-

- a) Describe the anticipated impact of the demolition, excavation and construction works on:
 - Local traffic routes
 - Pedestrian circulation adjacent to the building site
 - On-street parking in the local area

- b) Describe the means proposed to:
 - Manage construction works to minimise such impacts,
 - Provide for the standing of vehicles during construction,
 - Provide for the movement of trucks to and from the site, and deliveries to the site
- c) Show the location of:
 - Any site sheds and any anticipated use of cranes and concrete pumps,
 - Any areas of Council property on which it is proposed to install a Works Zone (Construction Zone)
 - Structures to be erected such as hoardings, scaffolding, security fencing or shoring
 - Any excavation
- d) Describe the excavation impact on the area including
 - Number and types of trucks to be used
 - Time frame
 - Streets to be used
 - Routes to be taken
 - Directions of travel
 - Truck storage areas
 - It is recommended that vehicle routes be shared
 - Excavation is to only be carried out outside peak and school hours between 9.30am to 2.30pm week days
 - That Trucks do not stand or park on Albert Street.
- e) Protect Trees, Bushland and Public Open Space:
 - Show the location of all Tree Protection (Exclusion) Zones as required within the conditions of this development consent.

The Plan must make provision for all materials, plant, etc. to be stored within the development site at all times during construction. Structures or works on Council property such as hoardings, scaffolding, shoring or excavation need separate approval from Council. Standing of cranes and concrete pumps on Council property will need approval on each occasion.

Note: A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.
Standard Condition: D9

D.5 Works (Construction) Zone – Approval & Implementation

A works zone is required for this development. The *principal contractor* or *owner* must apply for a works zone. If the works zone is approved the *principal contractor* or *owner* must pay all fees for and implement the required works zone before commencement of any work.

The *principal contractor* must pay all fees associated with the application and occupation and use of the road as a works zone. All works zone signs must have been erected by Council to permit enforcement of the works zone by Rangers and Police before commencement of any work. Signs are not erected until full payment of works zone fees.

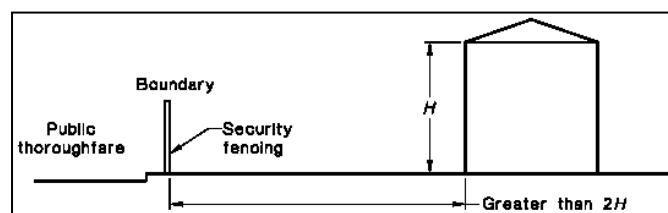
Note: The *principal contractor* or *owner* must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the Clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Traffic Authority under Section 50 of the *Transport Administration Act 1988*.

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The principal contractor must report any breach of the works zone to either Council or the NSW Police Service.

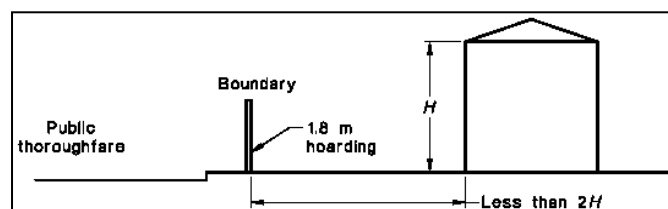
Standard Condition: D10

D.6 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.



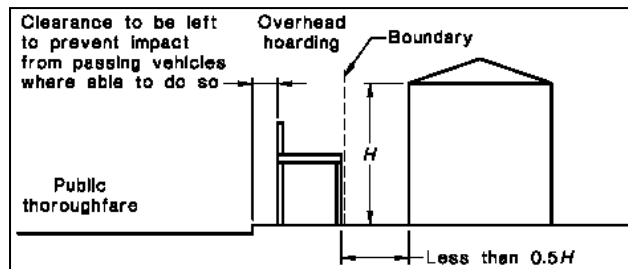
Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either:

- 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;

- c) 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
- d) Together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



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

The *principal contractor* or *owner builder* must ensure that Overhead Protective Structures are installed and maintained in accordance with WorkCover NSW Code of Practice - Overhead Protective Structures, gazetted 16 December 1994, as commenced 20 March 1995. This can be downloaded from:
<http://www.workcover.nsw.gov.au/Publications/LawAndPolicy/CodesofPractice/oheadprotstr ucts.htm>.

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

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

Standard Condition: D11

D.7 Site Signs

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

Clause 98A of the *Regulation* provides:

Erection of signs

- 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.
- 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.
- 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.
- 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.

- 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."

Clause 227A of the Regulation provides:

Signs on development sites

If there is a person who is the PCA or the principal contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:

- Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out.

Note: Clause 227A imposes a penalty exceeding \$1,000 if these requirements are not complied with.

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 and Clause 227A of the *Regulation*.

Standard Condition: D12

D.8 Toilet Facilities

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

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

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

In this condition:

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

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

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

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

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

D.9 Erosion and Sediment Controls – Installation

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

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

Where there is any conflict The Blue Book takes precedence.

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

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

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

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

Standard Condition: D14

D.10 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:
 - Appointed a principal certifying authority for the building work, and
 - Notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- c) the principal certifying authority has, no later than 2 days before the building work commences:
 - Notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - 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

- d) The person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
- 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
 - Notified the principal certifying authority of any such appointment, and
 - 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
 - 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.11 Subdivision of Land - Construction Certificate, Appointment of Principal Certifying Authority, and Notice of Commencement (s81A(3)&(4) of the Act)

Subdivision work in accordance with a development consent must not be commenced until:

- a) A *construction certificate* for the subdivision 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 appointed a *principal certifying authority* for the subdivision work, and
- c) The *principal certifying authority* has, no later than 2 days before the subdivision work commences:
- notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - 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 subdivision work, and
 - the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.

Note: ONLY COUNCIL CAN ISSUE A CONSTRUCTION CERTIFICATE FOR SUBDIVISION WORK. ONLY COUNCIL CAN ACT AS THE PCA FOR SUBDIVISION WORK.

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

Note: It is an offence for any person to carry out subdivision work in breach of this condition and in breach of section 81A(4) of the *Act*.

Note: A plan of subdivision cannot be registered under the *Conveyancing Act* 1919 unless a subdivision certificate has been issued for the subdivision.

Standard Condition: D16

D.12 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:
 - 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,
 - 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.13 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.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
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 Compliance with Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved construction management plan. All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on-site at all times and made available to the *PCA* or *Council* on request.

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

E.4 Requirement to notify about new evidence

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

Standard Condition: E4

E.5 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.6 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,
- d) The following *work* **must not** take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday;
 - i) Piling;
 - ii) Piering;
 - iii) Rock or concrete cutting, boring or drilling;
 - iv) Rock breaking;
 - v) Rock sawing;
 - vi) Jack hammering; or
 - vii) Machine excavation,
- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday
- g) No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

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

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

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

- Note:** The delivery and removal of plant, equipment and machinery associated with wide loads subject to RTA and Police restrictions on their movement out side the approved hours of work will be considered on a case by case basis.
- Note:** Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2000*.
- Note:** EPA Guidelines can be down loaded from <http://www.epa.nsw.gov.au/noise/nglg.htm> .
- Note:** see http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf
Standard Condition: E6

E.7 Public Footpaths – Safety, Access and Maintenance (Apply to all development)

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.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect street name inlays in the footpath which are not to be removed or damaged during development.

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:

- erect a structure or carry out a work in, on or over a public road, or
- dig up or disturb the surface of a public road, or
- remove or interfere with a structure, work or tree on a public road, or
- pump water into a public road from any land adjoining the road, or
- 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:
 - a. For fee or reward, transport waste over or under a public place
 - b. Place waste in a public place
 - c. Place a waste storage container in a public place.”

- Part E Public roads:
 - a. 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
 - b. 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.”
 - c. 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.8 Tree Preservation

All persons must comply with Council’s Tree Preservation Order (TPO) other than where varied by this consent. The order applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

General Protection Requirements:

- a) There shall be no excavation or work within a TPZ. The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.
- b) Excavation must cease where tree roots with a diameter exceeding 30mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

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

E.9 Tree Preservation & Approved Landscaping Works

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

- a) The following trees on private land must be retained:

Council Ref No	Species	Location	Dimension (metres)
2	<i>Washingtonia robusta</i> (Mexican Fan palm)	Rear – North east	16 x 3
7	5 x <i>Cupressus torulosa</i> (Bhutan Cypress) as hedge	Rear – West boundary	12 x 2

- b) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
1	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear – East boundary	10 x 10
5	<i>Eucalyptus elata</i> River (Peppermint)	Rear – North west	12 x 12
6	<i>Eucalyptus elata</i> River (Peppermint)	Rear – North west	14 x 12
7	1 x <i>Cupressus torulosa</i> (Bhutan Cypress)	Rear West boundary – north end of hedge row.	12 x 2

Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.

E.10 Maintenance of Environmental Controls

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

- Erosion and sediment controls,
- Dust controls,
- Dewatering discharges,
- Noise controls;
- Vibration monitoring and controls;
- Ablutions;

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

E.11 Compliance with Geotechnical/Hydrogeological Monitoring Program

Excavation must be undertaken in accordance with the recommendations of the *Geotechnical / Hydrogeological Monitoring Program* and any oral or written direction of the supervising *professional engineer*.

The *principal contractor* and any sub-contractor must strictly follow the *Geotechnical / Hydrogeological Monitoring Program* for the development including, but not limited to;

- The location and type of monitoring systems to be utilised;
- Recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the *professional engineer*; and
- The contingency plan.

Note: The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the Development Application to be appointed as the *professional engineer* supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.
Standard Condition: E12

E.12 Support of adjoining land and buildings

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

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

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

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

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

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

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

Standard Condition: E13

E.13 Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a *professional engineer* with expertise and experience in geotechnical engineering, between any potential source of vibration and any *building* identified by the *professional engineer* as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the *professional engineer* as the maximum acceptable peak particle velocity an audible alarm must activate such that the *principal contractor* and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the *professional engineer* and any further work recommencing the event must be recorded and the cause of the event identified and documented by the *professional engineer*.

Where the event requires, in the opinion of the *professional engineer*, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the *professional engineer* as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the *professional engineer* to the *principal contractor* and any sub-contractor clearly setting out required work practice.

The *principal contractor* and any sub-contractor must comply with all work directions, verbal or written, given by the *professional engineer*.

A copy of any written direction required by this condition must be provided to the *Principal Certifying Authority* within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the *professional engineer*, *principal contractor* and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the *professional engineer* to prevent any further damage and restore support to the *supported land*.

Note: *Professional engineer* has the same mean as in Clause A1.1 of the BCA.

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

Note: *Supported land* has the same meaning as in section 88K of the Conveyancing Act 1919.
Standard Condition: E14

E.14 Erosion and Sediment Controls – Maintenance

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

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

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



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

Note: Section 257 of the Protection of the Environment Operations Act 1997 provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

Standard Condition: E15

E.15 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.16 Site Cranes

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

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

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

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

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

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

Standard Condition: E19

E.17 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures 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), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the *site* and that the height of buildings, ancillary works, flood protection works 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 structure, flood protection work, swimming pool or spa pool or the like;
- e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.;
- f) Stormwater Drainage Systems prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

Note: This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that building are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

Standard Condition: E20

E.18 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.19 Prohibition of burning

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

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

Standard Condition: E22

E.20 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: “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: 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: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.
Standard Condition: E23

E.21 Compliance with Council’s Specification for Roadworks, Drainage and Miscellaneous Works Road works and work within the Road and Footway

All work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the *development* to which this consent relates must comply with Council’s *Specification for Roadworks, Drainage and Miscellaneous Works* dated February 2012.

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

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

Note: A copy of Council’s “*Specification for Roadworks, Drainage and Miscellaneous Works*” can be down loaded free of charge from Council’s website www.woollahra.nsw.gov.au
Standard Condition: E24

E.22 Swimming and Spa Pools – Temporary Child Resistant Barriers and other matters

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

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

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

E.23 Site waste minimisation and management – Demolition

In order to maximise resource recovery and minimise residual waste from demolition activities:

- a) The provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work
- b) An area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements)
- c) Provide separate collection bins and/or areas for the storage of residual waste
- d) Clearly 'signpost' the purpose and content of the bins and/or storage areas
- e) Implement measures to prevent damage by the elements, odour, health risks and windborne litter
- f) Minimise site disturbance, limiting unnecessary excavation

When implementing the SWMMP the applicant must ensure:

- a) Footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval
- b) Any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act (1997)*
- c) Waste is only transported to a place that can lawfully be used as a waste facility
- d) Generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by Workcover NSW
- e) Evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained

Note: Materials that have an existing reuse or recycling market should not be disposed of in landfill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.
Standard Condition: E31

E.24 Site waste minimisation and management – Construction

In order to maximise resource recovery and minimise residual waste from construction activities:

- a) The provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work
- b) Arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage
- c) Consider organising to return excess materials to the supplier or manufacturer
- d) Allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation)
- e) Clearly 'signpost' the purpose and content of the storage areas
- f) Arrange contractors for the transport, processing and disposal of waste and recycling. Ensure that all contractors are aware of the legal requirements for disposing of waste.
- g) Promote separate collection bins or areas for the storage of residual waste
- h) Implement measures to prevent damage by the elements, odour and health risks, and windborne litter

- i) Minimise site disturbance and limit unnecessary excavation
 - j) Ensure that all waste is transported to a place that can lawfully be used as a waste facility
 - k) Retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, Department of Environment and Climate Change (DECC) or WorkCover NSW
- Standard Condition: E32

E.25 Shoring and adequacy of adjoining property

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 an excavation that extends below the level of the base of the footings of a building on adjoining land.

The person having the benefit of the development consent must, at the person's own expense:

- a) Protect and support the adjoining premises from possible damage from the excavation
- b) Where necessary underpin the adjoining premises to prevent any such damage

Note: this condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Standard Condition: E33

E.26 Protection of Retaining Wall

The existing retaining wall between the subject development site and No.438-440 Edgecliff Road Edgecliff is not to be removed or damaged as a consequence of the development. Appropriate measures are to be undertaken to ensure the protection and restoration of this existing wall. This condition is imposed to preserve the cultural heritage of the Woollahra Municipality and protect the amenity of the adjoining residents.

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 Fire Safety Certificates

In the case of a *final occupation certificate* to authorise a person:

- a) to commence occupation or use of a *new building*, or
- b) to commence a change of building use for an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate has been issued for the building.

In the case of an *interim occupation certificate* to authorise a person:

- a) to commence occupation or use of a partially completed *new building*, or
- b) to commence a change of building use for part of an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate or an interim fire safety certificate has been issued for the relevant part of the building.

Note: This condition does not apply to a class 1a or class 10 building within the meaning of clause 167 of the Regulation.

Note: In this condition:

interim fire safety certificate has the same meaning as it has in Part 9 of the Regulation.

final fire safety certificate has the same meaning as it has in Part 9 of the Regulation.

new building has the same meaning as it has in section 109H of the Act.

Standard Condition: F4

F.3 Compliance Certificate from Sydney Water

All work must be completed in accordance with the Compliance Certificate under the Sydney Water Act 1994 and the “Notice of Requirements”.

Note: Please refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92.

Standard Condition: F5

F.4 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 include 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 and storage 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.5 State Environmental Planning Policy 65 – Design Verification Statement

Pursuant to clause 154A of the *Regulation* a *Certifying Authority* must not issue an *Occupation Certificate* to authorise a person to commence occupation or use of residential flat development unless the certifying authority has received a design verification from a *qualified designer*, being a statement in which the *qualified designer* verifies that the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.

- Note:** Although a *Certifying Authority* may pursuant to clause 161(2) of the *Regulation* be satisfied to any matter that relates to the external finish of a building clause 154A of the *Regulation* overrides the *Certifying Authority*’s powers under clause 161(2).
- Note:** Qualified designer means a person registered as an architect in accordance with the *Architects Act 1921*.
Standard Condition: F10

F.6 Street Numbering

The development must be provided with street and sole occupancy unit numbers determined by Council. This condition has been imposed to ensure that emergency services, utility services, and the general public are able to clearly and readily locate any property. Further, this condition has been imposed to protect the integrity of street numbering and land information.

- Note:** Applications for the allocation of street and sole occupancy unit numbers should be made together with any application for a strata certificate or Torrens or community title subdivision certificate. Council will determine at its discretion in accordance with its policy street numbers and street addresses that best suit the public interest.
Standard Condition: F11

F.7 Letter Box(es)

All letter boxes must be constructed and located in accordance with AS/NZS 4253:1994 Mailboxes and to Australia Post’s satisfaction.

- Note:** This condition has been imposed to ensure that mail can be delivered to occupiers of the site.
Standard Condition: F12

F.8 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:

- a) 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:
- b) 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

G.1 Consolidation of Allotments

Prior to the issue of the Subdivision Certificate, a final Plan of Survey prepared and certified by a Registered Surveyor must be submitted and approved by the Accredited Certifier showing the consolidation of lots 18 & 18A Albert Street into a single lot.

A new deposited plan of the consolidated lot must be registered at the Land Titles Office and copy provided to Council with copies of certificates of title, prior to the issue of the Strata Title Subdivision Certificate and the Final Occupation Certificate.

G.2 Strata Title Subdivision Certificate (s37 & s37A of the Strata Schemes (Freehold Development) Act 1973)

In addition to the statutory requirements of the Strata Schemes (Freehold Development Act 1973) a *Strata Certificate* must not be issued which would have the effect of:

- a) Transferring to any strata unit entitlement, any areas of common property shown upon the approved Development Application plans,
- b) Transferring to any strata unit entitlement, any visitor parking spaces, or
- c) Creating any unit entitlement to any car parking spaces not associated with an occupable unit entitlement within the strata plan of the approved development.

Note: This condition has been imposed to ensure that: (a) common property is not alienated from the strata scheme and assigned to any one or more strata lots, (b) visitor parking is not alienated from the strata scheme and assigned to any one or more strata lots such that visitors would be restricted from lawful access and use of required visitor parking, (c) parking spaces are not strata subdivided as separate strata lots which may be sold with full strata title rights as a parking space lot, reducing available parking to strata lots and visitors required to reduce demand for on-street public parking.
Standard Condition: G2

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 Certificates No.432450M and A140339.

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

Standard Condition: H7

H.2 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

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

Standard Condition: H9

H.3 Removal of Ancillary Works and Structures

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

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

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

Standard Condition: H12

H.4 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in accordance with the *Roads Act 1993* approvals and comply with Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" dated February 2012 unless expressly provided otherwise by these conditions at the *principal contractor's* or *owner's* expense:

- a) Stormwater pipes, pits and connections to public stormwater systems within the *road*;
- b) Driveways and vehicular crossings within the *road*;
- c) Removal of redundant driveways and vehicular crossings;
- d) New footpaths within the *road*;
- e) Relocation of existing power/light pole
- f) relocation/provision of street signs
- g) New or replacement street trees;

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

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

H.5 Positive Covenant & Works-As-Executed certification of stormwater systems

On completion of construction work, stormwater drainage works are to be certified by a *professional engineer* with Works-As-Executed drawings supplied to the *PCA* detailing:

- a) Compliance with conditions of development consent relating to stormwater;
- b) The structural adequacy of the storage system;
- c) That the works have been constructed in accordance with the approved design and will provide the storage volume and attenuation (where required) in accordance with the submitted calculations;
- d) Pipe invert levels and surface levels to Australian Height Datum;
- e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.
- f) A positive covenant pursuant to Section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the stormwater system, on-site detention, rainwater storage tank, and/or absorption trenches, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered at the Land Titles Office.

Note: The required wording of the Instrument can be downloaded from Council's web site www.woollahra.nsw.gov.au . The PCA must supply a copy of the WAE Plans to Council together with the *Final Occupation Certificate*. The *Final Occupation Certificate* must not be issued until this condition has been satisfied.
Standard Condition: H20

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 Certificates No. 432450M and A140339.

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

I.2 Maintenance of Landscaping

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

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

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

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

I.3 Clothes drying etcetera

No clothes, linen or the like must be hung from any balcony, terrace or veranda such that they are visible from any public place.

This condition has been imposed to ensure that the visual amenity of the neighbourhood is not detrimentally affected by a proliferation of such practices.

Standard Condition: I9

I.4 On-going maintenance of the on-site-detention system

The Owner(s) must in accordance with this condition and any positive covenant:

- a) Permit stormwater to be temporarily detained by the system;
- b) Keep the system clean and free of silt rubbish and debris;
- c) If the car park is used as a detention basin, a weather resistant sign must be maintained in a prominent position in the car park warning residents that periodic inundation of the car park may occur during heavy rain;
- d) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by the Council;
- e) Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
- f) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- g) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at anytime and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- h) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice;
- i) Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations;

- j) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the system and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition.

This condition has been imposed to ensure that owners are aware of require maintenance requirements for their stormwater systems.

Note: This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.

Standard Condition: I12

I.5 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.6 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)

Each year, the owner of a building to which an *essential fire safety measure* is applicable must provide an *annual fire safety statement* to Council and the Commissioner of the NSW Fire Brigades. The *annual fire safety statement* must be prominently displayed in the building.

Note: *Essential fire safety measure* has the same meaning as in clause 165 of the *Regulation*. *Annual fire safety statement* has the same meaning as in clause 175 of the *Regulation*. Part 9 Division 5 of the *Regulation* applies in addition to this condition at the date of this consent. Visit Council's web site for additional information in relation to fire safety www.woollahra.nsw.gov.au.

Standard Condition: I22

I.7 Outdoor lighting – Residential

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

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

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

I.8 Waste Management - Residential

Waste Management must comply with the approved Site Waste Minimisation and Management Plan (SWMMP) and with the requirements of Council's Site Waste and Minimisation Development Control Plan 2010.

The occupier of the site must place waste and recycling bins/crates on the footpath for collection but not earlier than 12 hours prior to the designated collection time.

The occupier of the site must remove waste and recycling bins/crates from the footpath within 12 hours of being emptied by Council's waste service and they must be stored within the site in the approved waste storage area.

No commercial waste must be placed within residential waste and recycling bins/crates.

This condition has been imposed to ensure that the provisions of the approved SWMMP and of Council's Site Waste Minimisation and Management Development Control Plan, 2010 are complied with during the ongoing operations of the development.

Note: For further residential wastes management policy information go to www.woollahra.nsw.gov.au or contact Council's Waste Education Officer.
Standard Condition: I45

I.9 Noise Control

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

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

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

Useful links:

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

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

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

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

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

Department of Gaming and Racing - (www.dgr.nsw.gov.au).

Standard Condition: I50

I.10 Noise from mechanical plant and equipment

The noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level* at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

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

Nil.

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 is also a criminal offence.

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

- a) Issue Penalty Infringement Notices (On-the-spot fines);
- b) Issue notices and orders;
- c) Prosecute any person breaching this consent; and/or
- d) 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 Commonwealth Disability Discrimination Act 1992 (“DDA”)

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

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

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

- a) <http://www.hreoc.gov.au/index.html>
- b) http://www.hreoc.gov.au/disability_rights/dda_guide/ins/ins.html

If you have any further questions relating to the application of the DDA you can send and email to HEROC at disabdis@humanrights.gov.au.

Standard Advising: K3

K.4 NSW Police Service and Road Closures

The Rose Bay Local Area Command closely aligns with the boundaries of the Woollahra local government area.

Council and Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Traffic Sergeant, Paddington Police Station, 16 Jersey Road, Paddington. Phone No.: 0283568299 or Fax No.: 0283568211.

Warning: If you partial or full close a road without compliance with Council and Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution.
Standard Advising: K4

K.5 Builders Licences and Owner Builders Permits

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

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

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

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

Standard Condition: K5

K.6 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.7 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.8 Asbestos Removal, Repair or Disturbance

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

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

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

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

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

Standard Advising: K8

K.9 Lead Paint

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

Industrial paints, may contain lead. Lead is used in some specialised sign-writing and artist paints, and road marking paints, and anti-corrosive paints. Lead was a major ingredient in commercial and residential paints from the late 1800s to 1970. Most Australian commercial buildings and residential homes built before 1970 contain lead paint. These paints were used both inside and outside buildings.

Lead hazards - Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained. If runoff contains lead particles it must be contained. Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

Standard Advising: K9

K.10 Dividing Fences

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

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

Standard Advising: K10

K.11 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr Dimitri Lukas^[d2], Senior Assessment Officer, on (02) 9391 7159.^[d3]

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.12 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.13 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.14 Owner Builders

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

Standard Condition: K18

K.15 Pruning or Removing a Tree Growing on Private Property

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

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

Standard Condition: K19

K.16 Model

If you submitted a model with the application it must be collected from the Council offices within fourteen (14) days of the date of this determination. Models not collected will be disposed of by Council.

Standard Condition: K21

K.17 Dilapidation Report Condition

Please note the following in relation to the condition for a dilapidation report:

- a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.

- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the Developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the applicant is to demonstrate in writing to the satisfaction of the Council that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

Standard Advising: K23

K.18 Roads Act Application

Works or structures over, on or under public roads or footpaths are subject to Sections 138, 139 and 218 of the *Roads Act* 1993 and specifically:

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's roadway
- Installation of soil/rock anchors under the roadway

An "Application to carry out works in a Public Road" form must be completed and lodged, with the Application fee, at Council's Customer Services counter. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by *Council* under Section 138 of the *Roads Act* 1993, before the issue of any *Construction Certificate*.

Detailed engineering plans and specifications of the works required by this Condition must accompany the Application form. The plans must clearly show the following:

- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb & gutter, new gully pit showing clearly the connection point of site outlet pipe(s). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with Clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – Off-street car parking. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by *Council*. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.

Note: any adjustments required from the garage slab and the street levels are to be carried out internally on private property

Drainage design works must comply with the Council's draft Development Control Plan Stormwater Drainage Management (Draft Version 1.1, Public Exhibition Copy dated 14 December 2006), and

Temporary ground anchors may be permitted, in accordance with Council's "*Rock Anchor Policy*".

All public domain works must comply with Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" dated February 2012 unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au.

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

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

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

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

Standard Advising: K24

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Councillor Bennett
Councillor Boskovitz
Councillor Elsing
Councillor Marano
Councillor O'Regan
Councillor Petrie
Councillor Thomas
Councillor Wynne
Councillor Zulman

Against the Motion

Councillor Robertson
Councillor Levenston

9/2

9.5 Strategic & Corporate Committee

Items with Recommendations from the Committee Meeting of Monday 29 April 2013 Submitted to the Council for Determination

Item No: R1 Recommendation to Council

Subject: **Draft Woollahra Local Environmental Plan 2013 - Request to Endorse The Draft LEP for Public Exhibition**

Author: Jacquelyne Della Bosca – Team Leader Strategic Planning

File No: 1064.G (Principal LEP Draft Woollahra Plan)

Reason for Report: To obtain a decision to endorse, for the purpose of public exhibition, the Draft Woollahra Local Environmental Plan 2013.

Note: In accordance with section 451(2) of the Local Government Act 1993 Councillors Ted Bennett, Anthony Boskovitz, Luise Elsing, Elena Kirillova, Matthew Robertson and Deborah Thomas submitted a “*Form of special disclosure of pecuniary interest*” in relation to this Item.

(Levenston/O’Regan)

18/7 Resolved:

- A. That Draft Woollahra Local Environmental Plan 2013, provided at **Annexure 3** of the report to the Strategic and Corporate Committee meeting on 29 April 2013, is referred to the Director-General of the NSW Department of Planning and Infrastructure under section 64 of *Environmental Planning and Assessment Act 1979* (EP&AAct) with a request for a certificate under section 65 to allow the Draft LEP to be placed on public exhibition subject to the following changes:
1. Insert the following objective for Zone B4 Mixed Use:
“To provide for development of a scale and type compatible with the amenity of the surrounding residential area”.
 2. Insert the land use “home occupations” as permissible without consent in the B4 Mixed Use Land use table. Delete the use “home occupations” as permissible with consent in the Land use table.
 3. Apply a floor space ratio of 2:1 on 13-17 Bellevue Road, Bellevue Hill
 4. Apply a floor space ratio of 1.5:1 on 156 Edgecliff Road, Woollahra.
 5. Remove two sites from *Schedule 4: Classification and reclassification of public land*. These sites are: Queen Street car park 53 Moncur Street, Woollahra and Land adjoining 15A Dumaresq Road, Rose Bay.
- B. That the Draft LEP provided at **Annexure 3** of the report to the Strategic and Corporate Committee meeting on 29 April 2013 and incorporating any minor amendments required by the Director-General, is publicly exhibited in accordance with the provisions of section 66 of the EP&AAct, and that the exhibition period is 12 weeks.

- C. That submissions to the exhibition of the Draft LEP are reported to the Strategic and Corporate Committee following completion of the consultation process.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Councillor Bennett
Councillor Boskovitz
Councillor Levenston
Councillor Elsing
Councillor Marano
Councillor O'Regan
Councillor Petrie
Councillor Thomas
Councillor Zulman

Against the Motion

Councillor Robertson

9/1

Notice of Motion

Item No: 1
From: Councillor Matthew Robertson
Date: 9 May 2013
File No: 900.G

(Robertson/Elsing)

That Council:

- a) Notes the latest report from the Independent Local Government Review Panel
- b) Welcomes the report's position in support of no forced amalgamations.
- c) Expresses concern that the report proposes a 'Super-City' merger of Woollahra Council with the City of Sydney, Waverley, Randwick, Botany (and possibly Leichhardt and Marrickville councils), without citing demonstrable benefits for Woollahra residents.
- d) Notes that any merger of Woollahra Council with neighbouring councils will inevitably reduce the level of local representation and strength of local democracy in the east, city and inner west of Sydney.
- e) Commit to continue to support local government as the level of government closest to the people and maintain Woollahra residents' rights to determine the future of their municipality and their local representation.

Lost

Note: A Division was called by Councillors Roberston and Thomas

For the Motion

Councillor Wynne
Councillor Zulman
Councillor Elsing
Councillor Roberston

Against the Motion

Councillor Boskovitz
Councillor Bennett
Councillor Levenston
Councillor Marano
Councillor O'Regan
Councillor Petrie
Councillor Thomas

4/7

Item No: 2
From: Councillor Matthew Robertson
Date: 9 May 2013
File No: 900.G

(Robertson/Thomas)

That Council:

- a) Welcomes the Commonwealth government's commitment to hold a referendum on the financial recognition of local government in the Australian Constitution.
- b) Reaffirms its support for financial recognition of local government in the Australian Constitution.
- c) Requests the Mayor to express these views in writing to the Prime Minister the Hon Julia Gillard, the federal Minister for Local Government the Hon Anthony Albanese, the NSW Minister for Local Government the Hon Don Page and the Federal Opposition Leader.

Lost

Questions for Next Meeting

Item No: 13
Subject: Questions for Next Meeting
Author: Gary James, General Manager
File No: 467.G/Q 10
Reason for Report: To allow Councillors to ask Questions for Next Meeting in accordance with Council's Code of Meeting Practice.

(Boskovitz/Wynne)

19/7 That Councillors ask Questions for Next Meeting in accordance with Council's Code of Meeting Practice.

Adopted

The following questions were asked:-

Councillor O'Regan asking:

Have Council Officers been advised of the potential non-compliance of garbage services (including timing, road blockage) and noise levels of the commercial premises on Oxford Street between Queen Street and Jersey Road and the impact on the residences that back onto Melrose Lane.

If so, what action can be taken?

Director Technical Services in response:

On notice.

Councillor Elsing asking:

Could Council staff please advise as to the progress of the Notice of Motion in relation to the Woollahra Edge area?

Primarily:

1. Timing around the matter being brought to Council and/or Committee.
2. Which Committee will be considering any report.

Mayor in response:

On notice.

Councillor Robertson asking:

Will staff please inform Council as to their progress preparing a response to the State Government's White Paper?

Director Planning and Development in response:

The three managers in the Division of Planning and Development, Chris Bluett Manager Strategic Planning, Patrick Robinson Manager Development Control and Tim Tuxford Manager Compliance are preparing appropriate responses on those aspects of the White Paper which are relevant to their area of responsibility. I will then pull that together and put a report which will probably go to the second meeting of the Urban Planning Committee in June to enable the Council to consider and resolve a position in relation to the White Paper prior to the end of June.

There being no further business the meeting concluded at 10.10pm.

We certify that the pages numbered 1364 to 1445 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 13 May 2013 and confirmed by Council at the ordinary Meeting of Council on 27 May 2013 as correct.

General Manager

Mayor