Development Control Committee Minutes

Monday 16 February 2015

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Development Control Committee Minutes

Minutes of the Meeting held on
Monday 16 February 2015 at 6.00pm

Present: Her Worship the Mayor, Councillor Toni Zeltzer ex-officio
Councillors Ted Bennett (Chair)
Luise Elsing
Greg Levenston
Anthony Marano

Staff: Allan Coker (Director – Planning & Development)
Renee Coull (Assessment Officer)
Nick Economou (Acting Manager – Development Control)
George Fotis (Team Leader)
Sue O’Connor (Secretarial Support - Governance)
Eleanor Smith (Acting Team Leader)
David Waghorn (Team Leader)

Session One: 6.00pm to 7.00pm
Session Two: 8.00pm to 8.55pm

Also in Attendance: Nil

Note: Item D9 (10 Queens Avenue, Vaucluse), D12 (Register of Current Land and Environment Court Matters and Register of Court Proceedings) & D13 (Register of SEPP 1 Objections) where brought forward and heard at the end of Session One.

Note: Item R1 (550 New South Head Road, Rose Bay (Lyne Park)) was brought forward and heard after D11 (47 Chamberlain Avenue, Rose Bay).
Leave of Absence

Leave of Absence previously granted by Council: Councillor James Keulemans

Apologies: Apologies were received and accepted from Councillors Katherine O’Regan & Elena Wise and Leave of Absence granted.

Late Correspondence

Late correspondence was submitted to the committee in relation to Items: D7, D8 & R1

Declarations of Interest

Nil
Items Decided by this Committee using its Delegated Authority (Items D1 to D13)

<table>
<thead>
<tr>
<th>Item No:</th>
<th>Subject:</th>
<th>Author:</th>
<th>File No:</th>
<th>Reason for Report:</th>
</tr>
</thead>
<tbody>
<tr>
<td>D1</td>
<td>Delegated to Committee</td>
<td>Craig Bennett, Manager – Governance &amp; Council Support</td>
<td>See Council Minutes</td>
<td>Confirmation of Minutes of Meeting held on 2 February 2015 and Confirmation of Extraordinary Meeting held on 9 February 2015. The Minutes of the Meeting of Monday 2 February 2015 and 9 February 2015 were previously circulated. In accordance with the guidelines for Committees’ operations it is now necessary that those Minutes be formally taken as read and confirmed.</td>
</tr>
</tbody>
</table>

(Levenston/Elsing)

Resolved:

That the Minutes of the Development Control Committee Meeting of 2 February 2015 and Extraordinary Development Control Committee Meeting of 9 February 2015 be taken as read and confirmed.

D2 DA174/2014 - 23 Sutherland Crescent, Darling Point – Change of use from a residential flat building to a dwelling house by extensive alterations & additions to a 4 storey building including new off-street car parking, new swimming pool with deck & extensive landscaping – 9/5/2014

Note: Adriana O'Donnell, daughter of Rhona Walker, objectors & George Karavanas Consultant Planner for the Applicant & Architect for the Applicant, addressed the Committee.

(Levenston/Marano)

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 objection under State Environmental Planning Policy No. 1 – Development Standards to the building height development standard under Clause 12 of Woollahra LEP 1995 is well founded. The Council is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as the proposal does not have an unreasonable affect the amenity of surrounding properties and is compatible with surrounding development.

AND

THAT the Council, as the consent authority, being satisfied that the objection under SEPP No. 1 is well founded and also being of the opinion that it is consistent with the aims of the Policy, grant development consent to Development Application No. 174/2014 for the change of use from a residential flat building to a dwelling house by extensive alterations and additions to 4-storey building including new off-street car parking, new swimming pool with deck, and extensive landscaping on land at 23 Sutherland Crescent Darling Point, 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, piering, 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.
### A.4 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 shall be retained

- **Trees on Private Land**

<table>
<thead>
<tr>
<th>Council Ref No</th>
<th>Species</th>
<th>Location</th>
<th>Dimension (metres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td><em>Casuarina cunninghamiana</em> (River She-oak)</td>
<td>Rear – SE corner</td>
<td>19 x 10</td>
</tr>
<tr>
<td>10</td>
<td><em>Acmena smithii</em> (Lillypilly)</td>
<td>Rear – N boundary</td>
<td>5 x 3</td>
</tr>
</tbody>
</table>
b) The following trees may be removed:

<table>
<thead>
<tr>
<th>Council Ref No</th>
<th>Species</th>
<th>Location</th>
<th>Dimension (metres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><em>Brachychiton acerifolius</em> (Illawarra Flame tree)</td>
<td>Rear – Centre</td>
<td>15 x 8</td>
</tr>
<tr>
<td>3</td>
<td><em>Melaleuca quinquenervia</em> (Broad-leaved Paperbark)</td>
<td>Rear – S boundary</td>
<td>4 x 4</td>
</tr>
<tr>
<td>4</td>
<td><em>Angophora costata</em> (Sydney Pink Gum)</td>
<td>Rear – SE corner</td>
<td>10 x 4</td>
</tr>
<tr>
<td>6</td>
<td><em>Eucalyptus botryoides</em> (Bangalay)</td>
<td>Rear – SE corner</td>
<td>9 x 6</td>
</tr>
<tr>
<td>7</td>
<td><em>Livistonia australis</em> (Cabbage Tree palm)</td>
<td>Rear – Centre of E boundary</td>
<td>10 x 4</td>
</tr>
<tr>
<td>8</td>
<td><em>Banksia integrifolia</em> (Coastal Banksia)</td>
<td>Rear NE corner</td>
<td>9 x 10</td>
</tr>
<tr>
<td>9</td>
<td><em>Casuarina glauca</em> (Swamp She-oak)</td>
<td>Rear – N boundary</td>
<td>10 x 5</td>
</tr>
<tr>
<td>12</td>
<td><em>Howea forsteriana</em> (Kentia palm)</td>
<td>Side – N boundary</td>
<td>4 x 3</td>
</tr>
<tr>
<td>14</td>
<td><em>Howea forsteriana</em> (Kentia palm)</td>
<td>Side N boundary</td>
<td>6 x 3</td>
</tr>
<tr>
<td>15</td>
<td><em>Hymenosporum flavum</em> (Native Frangipani)</td>
<td>Front – Council verge</td>
<td>6 x 3</td>
</tr>
</tbody>
</table>

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

A.5 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

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 Identification of Hazardous Material

In accordance with Australian Standard AS2601- ‘The Demolition of Structures’ the owner shall identify all hazardous substances located on the site including asbestos, Polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per Clause 1.6.1 of the Standard. In this regard, prior to the commencement of any work, Council shall be provided with a written report prepared by a suitably qualified competent person detailing:

- all hazardous materials identified on the site;
- the specific location of all hazardous materials identified;
- whether the hazardous materials are to be removed from the site as part of the works to be undertaken; and
- safety measures to be put in place.

Note: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.

Standard Condition: B6

B.3 Public Road Assets prior to any work/demolition

To clarify the condition of the existing public infrastructure prior to the commencement of any development (including prior to any demolition), the Applicant or Owner must submit to Council a full record of the condition of the Public Road infrastructure adjacent to the development site.

The report must be submitted to Council prior to the commencement of any work and include photographs showing current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and
- drainage structures/pits.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Applicant or Owner fails to submit the Asset condition report required by this condition and damage is occasioned to public assets adjoining the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose

Standard Condition: B7

B.4 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

<table>
<thead>
<tr>
<th>Council Ref No</th>
<th>Species</th>
<th>Location</th>
<th>Radius from Centre of Trunk (Metres)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td><em>Casuarina cunninghamiana</em> (River She-oak)</td>
<td>Rear – SE corner</td>
<td>3m</td>
</tr>
<tr>
<td>10</td>
<td><em>Acmena smithii</em> (Lillypilly)</td>
<td>Rear – N boundary</td>
<td>2m</td>
</tr>
<tr>
<td>11</td>
<td><em>Syzygium leuhmannii</em> (Small-leaved Lillypilly)</td>
<td>Standing on 19 Sutherland Cres. – Side S boundary</td>
<td>2m</td>
</tr>
<tr>
<td>13</td>
<td><em>Murraya paniculata</em> (Mock Orange)</td>
<td>Standing on 19 Sutherland Cres. – Side S boundary</td>
<td>2m</td>
</tr>
</tbody>
</table>

Note: Where this condition relates to trees on private property the radial distance of fencing shall be positioned only within the subject property.

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 bought 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:

<table>
<thead>
<tr>
<th>Council Ref No</th>
<th>Species</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td><em>Casuarina cunninghamiana</em> (River She-oak)</td>
</tr>
<tr>
<td>10</td>
<td><em>Acmena smithii</em> (Lillypilly)</td>
</tr>
</tbody>
</table>

Trunk protection shall consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x 100mm 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 Condition B.2 of this consent.

f) Establishment of Ground protection
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 Condition B.2 of 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.5 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

<table>
<thead>
<tr>
<th>Council Ref No:</th>
<th>Species</th>
<th>Radius from Trunk (metres)</th>
<th>Approved works</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td><em>Casuarina cunninghamiana</em> (River She-oak)</td>
<td>3m</td>
<td>Hand excavation for installation of drainage pipes. Hand excavation for pool retaining wall footing</td>
</tr>
<tr>
<td>10</td>
<td><em>Acmena smithii</em> (Lillypilly)</td>
<td>2m</td>
<td>Hand excavation for installation of drainage pipes</td>
</tr>
<tr>
<td>11</td>
<td><em>Syzygium leuhmannii</em> (Small-leaved Lillypilly)</td>
<td>2m</td>
<td>Hand excavation for installation of drainage pipes</td>
</tr>
<tr>
<td>13</td>
<td><em>Murraya paniculata</em> (Mock Orange)</td>
<td>2m</td>
<td>Hand excavation for installation of drainage pipes</td>
</tr>
</tbody>
</table>

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

B.6 Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall include:

- a record of the condition of trees to be retained prior to and throughout development
- recommended actions to improve site conditions and rectification of non-compliance
- recommendations for future works which may impact the trees

All compliance certification documents shall be kept on site by the Site Foreman.

As a minimum the following intervals of site inspections must be made:

<table>
<thead>
<tr>
<th>Stage of arboricultural inspection</th>
<th>Compliance documentation including photos shall be included</th>
</tr>
</thead>
<tbody>
<tr>
<td>Installation of tree protection fencing</td>
<td>Compliance with tree protection measures</td>
</tr>
<tr>
<td>Demolition of existing stairs and construction of new stairs adjacent to Tree 5</td>
<td>Size and condition of any exposed roots</td>
</tr>
<tr>
<td>Excavation for pool retaining wall adjacent to Tree 5</td>
<td>Size and condition of any exposed roots</td>
</tr>
<tr>
<td>Installation of drainage pipes adjacent to Tree 5, 10, 11 &amp; 13</td>
<td>Condition of roots and soil</td>
</tr>
<tr>
<td>Prior to the issue of a Final Occupation Certificate</td>
<td>Supervise the dismantling of tree protection measures</td>
</tr>
</tbody>
</table>

Inspections and compliance documentation shall be made by an arborist with AQF Level 5 qualifications.

Additional site visits shall be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.
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) Front fence
The solid front fence and gate on the northern side of the proposed garage shall be no greater in height than 1.2m.

This condition is imposed to ensure compliance with the desired future character performance criteria for the Darling Point Precinct as set out in Control C4.1.18.1 of the Woollahra Residential Development Control Plan 2003.

b) Driveway splay
The northern driveway splay shall mirror the design of the southern driveway splay comprising of an open wall with vertical blades angled to allow for sightlines from the garage to the street.

This condition is imposed to achieve suitable sight distance requirements for driver and pedestrian safety as set out in Control C5.4.8 of the Woollahra Residential Development Control Plan 2003.

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.

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.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Indexed</th>
<th>Council Fee Code</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LONG SERVICE LEVY</strong> under Building and Construction Industry Long Service Payments Act 1986</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>SECURITY</strong> under section 80A(6) of the Environmental Planning and Assessment Act 1979</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property Damage Security Deposit -making good any damage caused to any property of the Council</td>
<td>$86,040.40</td>
<td>No</td>
<td>T113</td>
</tr>
</tbody>
</table>
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) | $37,788 + Index Amount | Yes, quarterly | T96 |

INSPECTION FEES
under Section 608 of the Local Government Act 1993

| Public Road/Footpath Infrastructure Inspection Fee | $418 | No | T45 |
| Security Administration Fee | $185 | No | T16 |

TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES $124,431.40 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 Certificate No. A183640 with any application for a Construction Certificate.

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

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

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

Standard Condition: C7

C.4 Road and Public Domain Works

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

a) Full width vehicular crossings having a width of 4m in accordance with Council’s standard driveway drawing RF2 (Latest amendment).

b) A design longitudinal surface profile for the proposed driveway must be submitted for assessment.

c) Reinstatement of footpath, kerb and gutter to match existing.
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 condition K24 in Section K. Advisings of this Consent titled *Roads Act Application*. Standard Condition: C13

C.5 Provision for Energy Supplies

The applicant must provide to the *Certifying Authority* a letter from Energy Australia setting out Energy Australia’s requirements relative to the provision of electricity/gas supply to the development.

Any required substation must be located within the boundaries of the site.
Where an electricity substation is required within the site but no provision has been made to place it within the building and such substation has not been detailed upon the approved development consent plans a section 96 application is required to be submitted to Council. Council will assess the proposed location of the required substation.

The *Construction Certificate* plans and specifications, required to be submitted pursuant to clause 139 of the *Regulation*, must detail provisions to meet the requirements of Energy Australia.

Where the substation is required the *Construction Certificate* plans and specifications must provide:

a) A set back not less than 3m from the road boundary and dense landscaping of *local native plants* to screen the substation from view within the streetscape,
b) A set back not less than 3m from any other site boundary (fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility pursuant to clause 3.2.4 of AS2890.1-1993(See: Figures 3.2 and 3.3),
c) A set back to and not within the drip line of any existing tree required to be retained,
d) A setback not less than the 10m from any NSW Fire Brigade booster connection as prescribed by clause 5.6.3(d)(iii) of AS 2419.1-1994 or be separated from any booster connections by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2 m each side of and 3 m above the upper hose connections in the booster assembly pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994, and

e) The owner shall dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established, if required. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors are not to intrude onto the public road reserve.
Note: If the substation is not located within the building its location, screening vegetation, all screen walls or fire separating walls must have been approved by the grant of development consent or amended development consent prior to the issue of any Construction Certificate for those works. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Certifying Authority prior to issue of the Construction Certificate. The Certifying Authority must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

Note: This condition has been imposed because the application fails to provide sufficient detail (either by plans or by the Statement of Environmental Effects) demonstrating that provision has been made to Energy Australia’s satisfaction for the provision of electricity supply to the building. Nevertheless, Council has no reason to believe that provision cannot be reasonably made for electricity to service the development.

Note: Where it is proposed to shield any booster connection or any building from any substation pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994 or by fire resisting construction under the BCA respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent pursuant to clause 145 of the Regulation. The Applicant must lodge with Council details for any such construction pursuant to section 96 of the Act to allow assessment under section 79C of the Act.

Note: Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard AS/NZS 2890 (Set)-2004 Parking Facilities Set whether such driveways service the site or any adjoining land.

C.6 Structural Adequacy of Existing Supporting Structures

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

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

C.7 Professional Engineering Details

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

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

Note: This does not affect the right of the developer to seek staged Construction Certificates.

C.8 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.9 Parking Facilities


- 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.10 Stormwater Management Plan (Clause 25(2) WLEP 1995)

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 Stormwater Drainage Plan by Northern Beaches P/L Dwg No D01 to D05 Rev. B dated 21.06.2014 other than amended by this and other conditions;
- b) the discharge of stormwater, by direct connection, via outlets to the existing systems;
- c) compliance the objectives and performance requirements of the BCA;
- d) any rainwater tank required by BASIX commitments including their overflow connection to the Stormwater Drainage System,
e) general compliance with the Council’s draft Development Control Plan Stormwater Drainage Management (draft version 1.1, public exhibition copy dated 14/12/2006),

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:

- All pipe layouts, dimensions, grades, lengths and material specification,
- All invert levels reduced to Australian Height Datum (AHD),
- Location and dimensions of all drainage pits,
- Point and method of connection to Council’s drainage infrastructure, and
- Overland flow paths over impervious areas.
- Copies of certificates of title, showing the creation of private easements to drain water by gravity, if required.
- Subsoil drainage details, clean out points, discharge point.

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

Standard Condition: C51

**C.11 Flood Protection**

The *Construction Certificate* plans and specifications, required by Clause 139 of the *Regulation*, must include a Flood Risk Management Plan on the basis of a 1:100 year flood as set out in the Flood Risk Management Report by Study prepared by Northern Beaches Consulting Eng P/L Ref:130902 dated 18 July 2014 which made the following conclusions:

The proposed alterations and additions are not envisaged to have adverse effects on the neighbouring or downstream properties. The alterations will not impede overland flows when compared to the existing site conditions. It is envisaged that the overland flows will be contained to the adjacent staircase along the northern boundary.

It is recommended that:

- any entry points along this pathway (windows, doors etc) are set at 350mm (minimum) above the outside levels to ensure adequate freeboard is achieved i.e. Council’s minimum of 300mm plus flow depth.”

**Note:** The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1 – 2004, Part 1 (Off-street car parking). The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.

Standard Condition: C54

**C.12 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* and the Building Code of Australia.
Approval is not granted for the modification of any boundary fencing beyond what is authorised by the stamped approved plans, as modified by any condition of consent or what is permitted to be carried out as ‘exempt development’ pursuant to State Environmental Planning Policy (Exempt & Complying Development Codes) 2008.

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.13 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.14 Submission of a Site Waste Minimisation and Management Plan (SWMMP)

A SWMMP, prepared in accordance with Council’s Site Waste Minimisation and Management Development Control Plan 2010, is to be submitted to Council for approval prior to a Construction Certificate being issued.
Standard Condition: C68

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)

- 19 Sutherland Crescent
- 21 Sutherland Crescent
- 27 Sutherland Crescent

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– Approval & Implementation

As a result of the site constraints, limited space and access a Construction Management Plan (CMP) is to be submitted to Council. Also, due to lack of on-street parking a Work Zone may be required during construction.
A CMP must be submitted to and approved by Council’s Traffic and Transport Engineer. The plan must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:-

a) Detail the scope of the works to be completed including details of the various stages, e.g. Demolition, Excavation, Construction etc. and the duration of each stage.
b) Identify local traffic routes to be used by construction vehicles.
c) Identify ways to manage construction works to address impacts on local traffic routes.
d) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
e) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access or reversing manoeuvres onto a public road and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.
f) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
g) Provide for the standing of vehicles during construction.
h) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
i) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
j) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.
k) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.
l) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
m) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion? (Note: Oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)
n) Show the location of any proposed excavation and estimated volumes.
o) When excavation works are to be undertaken on school days, all vehicular movements associated with this work shall only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.
p) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).

**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:

a) The vertical height above footpath level of the structure being demolished is less than 4.0 m; or
b) 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:

a) Extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;

b) 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.

![Diagram of overhead structure]

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/OverheadProtecducts.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.

**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 downloaded 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:** D13

**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 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.

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.

E.2 Compliance with Australian Standard for Demolition

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.


E.7 Public Footpaths – Safety, Access and Maintenance

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.

E.8 Maintenance of Environmental Controls

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

a) Erosion and sediment controls,

b) Dust controls,

c) Dewatering discharges,

d) Noise controls;

e) Vibration monitoring and controls;

f) Ablutions;


E.9 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.10 Erosion and Sediment Controls – Maintenance**

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

a) The Soil and Water Management Plan required under this consent;  
b) “Do it Right On Site, Soil and Water Management for the Construction Industry” published by the Southern Sydney Regional Organisation of Councils, 2001; and  

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.11 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.12 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.13 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.14 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.15 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 downloaded 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.16 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.

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

E.17 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 and Building Code of Australia 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 and the Building Code of Australia 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.

E.18 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 a landfill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

Standard Condition: E31

E.19 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.20 Asbestos Removal

Where hazardous material, including bonded or friable asbestos has been identified in accordance with condition B6 above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:
- be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (restricted) Asbestos License,
- No asbestos products may be reused on the site
- No asbestos laden skip or bins shall be left in any public place

**Note:** This condition is imposed to protect the health and safety of persons working on the site and the public

**Standard Condition: E39**

**E.21 Classification of Hazardous Waste**

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW DECC *Waste Classification Guidelines, Part1: Classifying Waste* (April 2008).

**Note:** This condition is imposed to ensure that where hazardous waste will be removed from a site an Asbestos Licensed contractor can definitively determine where the waste may be legally taken for disposal.

**Standard Condition: E40**

**E.22 Disposal of Asbestos and Hazardous Waste**

Asbestos and hazardous waste, once classified in accordance with condition E 40 above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

**Note:** This condition is imposed to ensure that asbestos and other Hazardous waste is disposed of lawfully under the *Protection of the Environment Operations Act 1997* and relevant EPA requirements.

**Standard Condition: E41**

**E.23 Asbestos Removal Signage**

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site when asbestos is being removed.

**Note:** This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.

**Standard Condition: E42**

**E.24 Notification of Asbestos Removal**

All adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

**Note:** This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.

**Standard Condition: E43**
E.25 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 “Pruning of Amenity Trees” and WorkCover NSW Code of Practice Amenity Tree Industry.

Standard Condition: E8

d) Replacement/Supplementary trees which must be planted

Any replacement or supplementary tree shall be grown in accordance with NATSPEC Specifying Trees. The replacement tree shall be maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council’s Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

<table>
<thead>
<tr>
<th>Species/Type</th>
<th>Planting Location</th>
<th>Container Size/Size of Tree (when planting)</th>
<th>Minimum Dimensions at Maturity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plumeria acutifolia (Frangipani)</td>
<td>Front – SW corner</td>
<td>200 litre</td>
<td>5 x 5</td>
</tr>
<tr>
<td>Banksia integrifolia (Coastal Banksia)</td>
<td>Rear – N boundary</td>
<td>200 litre</td>
<td>10 x 8</td>
</tr>
</tbody>
</table>

The project arborist shall document compliance with the above condition.

<table>
<thead>
<tr>
<th>Council Ref No.</th>
<th>Species</th>
<th>Radius from Trunk (metres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Casuarina cunninghamiana (River She-oak)</td>
<td>3m</td>
</tr>
<tr>
<td>10</td>
<td>Acmena smithii (Lillypilly)</td>
<td>2m</td>
</tr>
<tr>
<td>11</td>
<td>Syzygium leuhammadii (Small-leaved Lillypilly)</td>
<td>2m</td>
</tr>
<tr>
<td>13</td>
<td>Murraya paniculata (Mock Orange)</td>
<td>2m</td>
</tr>
</tbody>
</table>

g) Hand excavation within tree root zones

Excavation undertaken within the specified radius from the trunks of the following trees shall be hand dug.
Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or in excess of 30mm shall not be severed or damaged unless approved in writing by the project arborist.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the perimeter line is completed. Exposed roots to be retained shall be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

All root pruning must be undertaken in accordance with the Australian Standard 4373 “Pruning of Amenity Trees” and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 4 or recognised equivalent).

The project arborist shall document compliance with the above condition.

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

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

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

Note: New building includes an altered portion of, or an extension to, an existing building.

Standard Condition: F1

F.2 Commissioning and Certification of Systems and Works

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

Works-as-executed (“WAE”) plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA must 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.3 Swimming and Spa Pools – Permanent Child Resistant Barriers and Other Matters

Prior to filling any swimming pool, as defined by the Swimming Pools Act 1992:


c) The Principal Contractor or owner must either obtain a ‘Certificate of Compliance’ issued pursuant to Section 22D of the Swimming Pools Act 1992 or an appropriate Occupation Certificate authorising use of the swimming pool.

d) 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.

e) 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.


Standard Condition: F13

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

No relevant conditions.

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

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No. A183640.
Note: Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

Standard Condition: H7

H.2 Removal of Ancillary Works and Structures

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

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

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

Standard Condition: H7

H.3 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: 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 released by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the Final Occupation Certificate to Council. This form can be downloaded from Council’s website www.woollahra.nsw.gov.au or obtained from Council’s customer service centre.

Standard Condition: H13

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

I.1 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. A183640.

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: I24

I.2 Swimming and Spa Pools – Maintenance

Swimming and Spa Pools must be maintained:

a) In compliance with the Swimming Pools Act 1992 and the Building Code of Australia 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 downloaded free from:


Standard Condition: I30

I.3 Outdoor Lighting – Residential

Outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminare 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: I48
J. Miscellaneous Conditions

No relevant conditions.

K. Advisings

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

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

Warning 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:


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

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

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

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.

K.4 Building Standards - Guide to Standards and Tolerances

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

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

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

The Guide can be downloaded from:

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

K.5 Workcover Requirements

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

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

Standard Condition: K7
K.6 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/.

K.7 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Ms R Coull, Assessment Officer, on (02) 9391 7098.

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.

K.8 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.
K.9 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.10 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.11 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.12 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.13 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 requested 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 PCA 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.14 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”.

**Services** Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.

All public domain works must comply with the latest version of Council’s “Specification for Roadworks, Drainage and Miscellaneous Works” unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au).

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

**Note:** 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 Elsing  
Councillor Levenston  
Councillor Marano

**Against the Motion**

Councillor Zeltzer

4/1

Note: George Karavanas Consultant Planner for the Applicant & Richard Archer Architect addressed the Committee.

(Elsing/Zeltzer)

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 objection under State Environmental Planning Policy No. 1 – Development Standards to the 9.5m height development standard under Clause 12 of Woollahra LEP 1995 is well founded. The Council is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case.

AND

THAT the Council, as the consent authority, being satisfied that the objection under SEPP No. 1 is well founded and also being of the opinion that it is consistent with the aims of the Policy, grant development consent to Development Application No. 371/2014 for various alterations and additions to the dwelling including a new garage on land at 7 Wolseley Crescent, Point Piper, 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, piering, 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.

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.

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Author/Drawn</th>
<th>Date(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>AW-14-010-100GA Rev K</td>
<td>Plans</td>
<td>Archer &amp; Wright</td>
<td>14/10/14</td>
</tr>
<tr>
<td>AW-14-010-104GA Rev J</td>
<td>Plans</td>
<td>Archer &amp; Wright</td>
<td>29/01/2015</td>
</tr>
<tr>
<td>AW-14-010-800EL Rev K, AW-14-010-801EL Rev G, AW-14-010-802EL Rev H, AW-14-010-803EL Rev H</td>
<td>Elevations</td>
<td>Archer &amp; Wright</td>
<td>29/12/14</td>
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<tr>
<td>AW-14-010-850SE Rev D and AW-14-010-851SE Rev D</td>
<td>Sections</td>
<td>Archer &amp; Wright</td>
<td>01/09/14</td>
</tr>
<tr>
<td>AW-14-010-000DP, AW-14-010-001DP, AW-14-010-002DP Rev I and AW-14-010-004DP Rev E</td>
<td>Demolition plans</td>
<td>Archer &amp; Wright</td>
<td>01/09/14</td>
</tr>
<tr>
<td>Dwg No AW-14-010-860SE</td>
<td>Proposed Driveway Details</td>
<td>Archer + Wright</td>
<td>01/09/14</td>
</tr>
<tr>
<td>Dwg No AW-14-010-124GA</td>
<td>Stormwater Management Plan</td>
<td>Archer + Wright</td>
<td>01/09/14</td>
</tr>
<tr>
<td>-</td>
<td>Site Waste Management and Minimisation Plan</td>
<td>Archer &amp; Wright</td>
<td>undated</td>
</tr>
<tr>
<td>A192220_02</td>
<td>BASIX</td>
<td>Planning and Infrastructure</td>
<td>26/08/2014</td>
</tr>
</tbody>
</table>

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.)

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: A5

Development Control Committee of 16 February 2015 Page 245
A.5 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 shall be retained

- Trees on Private Land

<table>
<thead>
<tr>
<th>Council Ref No</th>
<th>Species</th>
<th>Location</th>
<th>Dimension (metres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Acmena smithii (Lillypilly)</td>
<td>RHS adjacent to pedestrian entrance</td>
<td>6 height x 3 crown spread</td>
</tr>
<tr>
<td>2</td>
<td>Acmena smithii (Lillypilly)</td>
<td>RHS adjacent to pedestrian entrance</td>
<td>6 height x 3 crown spread</td>
</tr>
<tr>
<td>3</td>
<td>Acmena smithii (Lillypilly)</td>
<td>Adjacent to east boundary</td>
<td>6 height x 5 crown spread</td>
</tr>
</tbody>
</table>

A.6 Surrender of DA262/2011 for infill of the existing swimming pool

DA262/2011 is required to be surrendered prior to commencement of works under this DA.

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

<table>
<thead>
<tr>
<th>Council Ref No</th>
<th>Species</th>
<th>Location</th>
<th>Radius from Centre of Trunk (Metres)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Acmena smithii (Lillypilly)</td>
<td>RHS adjacent to pedestrian entrance</td>
<td>2</td>
</tr>
<tr>
<td>2</td>
<td>Acmena smithii (Lillypilly)</td>
<td>RHS adjacent to pedestrian entrance</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>Acmena smithii (Lillypilly)</td>
<td>Adjacent to east boundary</td>
<td>2</td>
</tr>
</tbody>
</table>
b) Trunk protection shall be installed around the trunks of the following trees:

<table>
<thead>
<tr>
<th>Council Ref No</th>
<th>Species</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Acmena smithii (Lillypilly)</td>
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<tr>
<td>2</td>
<td>Acmena smithii (Lillypilly)</td>
</tr>
<tr>
<td>3</td>
<td>Acmena smithii (Lillypilly)</td>
</tr>
</tbody>
</table>

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.

c) 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.

d) 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 Condition B.2 of this consent.

e) 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 Condition B.2 of this consent. Appropriate ground protection shall be installed under the supervision of the site arborist.

f) All site personnel and contractors must be made aware of all tree protection requirements associated with these conditions of consent.

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

Standard Condition: B5

B.3 Demolition and Construction Management Plan

A Demolition and Construction Management Plan in relation to existing trees on/adjacent the subject site must be submitted to Council prior to the issue of a Construction Certificate for further assessment by the Tree Department. The plan must consider and make allowance for all construction operations which will be undertaken within the vicinity of trees to be retained. In particular the plan is to include:

a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;

b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc.;
c) Site construction access, temporary crossings and movement corridors on the site defined;
d) Contractors car parking;
e) Phasing of construction works;
f) The space needed for all foundation excavations and construction works;
g) All changes in ground level;
h) Space for site sheds and other temporary structures such as toilets;
i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas.

B.4 Public Road Assets prior to any work/demolition

To clarify the condition of the existing public infrastructure prior to the commencement of any development (including prior to any demolition), the Applicant or Owner must submit to Council a full record of the condition of the Public Road infrastructure adjacent to the development site.

The report must be submitted to Council prior to the commencement of any work and include photographs showing current condition and any existing damage fronting and adjoining the site to the:
- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and
- drainage structures/pits.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Applicant or Owner fails to submit the Asset condition report required by this condition and damage is occasioned to public assets adjoining the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose

Standard Condition: B7

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 western side boundary wall extension towards Wolseley Crescent is to match the height of the existing wall being 1.8m (RL12.00)
b) The front fence is to achieve a maximum height of 1.5m and is to be 50% transparent in accordance with C 4.5.7.6 of WRDCP 2003
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.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Indexed</th>
<th>Council Fee Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>LONG SERVICE LEVY</td>
<td>Contact LSL Corporation or use online calculator</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>under Building and Construction Industry Long Service Payments Act 1986</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SECURITY</td>
<td>Property Damage Security Deposit -making good any damage caused to any property of the Council</td>
<td>$70,363</td>
<td>No</td>
</tr>
<tr>
<td>under section 80A(6) of the Environmental Planning and Assessment Act 1979</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DEVELOPMENT LEVY</td>
<td>Development Levy (Section 94A)</td>
<td>$33,798.44 + Index Amount</td>
<td>Yes, quarterly</td>
</tr>
<tr>
<td>under Woollahra Section 94A Development Contributions Plan 2011</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>This plan may be inspected at Woollahra Council or downloaded at <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>INSPECTION FEES</td>
<td>Security Administration Fee</td>
<td>$185</td>
<td>No</td>
</tr>
<tr>
<td>under Section 608 of the Local Government Act 1993</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</td>
<td>$104,346.44 plus any relevant indexed amounts and long service levy</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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.longservice.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 Certificate* No.A192220_02 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 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.

C.5 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


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

C.6 Structural Adequacy of Existing Supporting Structures

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

Note: This condition is imposed to ensure that the existing structure is able to support the additional loads proposed. Standard Condition: C35
C.7 Professional Engineering Details

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

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

**Note:** This does not affect the right of the developer to seek staged Construction Certificates.

Standard Condition: C36

C.8 Tree Management Plan

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

- **a)** Trees to be numbered in accordance with these conditions:
  - shaded green where required to be retained and protected
  - shaded red where authorised to be removed
  - shaded yellow where required to be transplanted
  - shaded blue where required to be pruned

- **b)** References to applicable tree management plan, arborists report, transplant method statement or bush regeneration management plan.

This plan shall be kept on site until the issue of the final occupation certificate.

Standard Condition: C30

C.9 Amended Stormwater Drainage Plan

An amended Stormwater Drainage Plan, conforming to the conditions of this Development Consent shall be submitted to Council for assessment prior to issue of the Construction Certificate (OR) must be submitted to Council for further assessment.

Underground services shall not be positioned within the following radial distances:

<table>
<thead>
<tr>
<th>Council Ref No:</th>
<th>Species</th>
<th>Tree Location</th>
<th>Radius from centre of trunk (metres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><em>Acmena smithii</em> (Lillypilly)</td>
<td>RHS adjacent to pedestrian entrance</td>
<td>2</td>
</tr>
<tr>
<td>2</td>
<td><em>Acmena smithii</em> (Lillypilly)</td>
<td>RHS adjacent to pedestrian entrance</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td><em>Acmena smithii</em> (Lillypilly)</td>
<td>Adjacent to east boundary</td>
<td>2</td>
</tr>
</tbody>
</table>
C.10 Parking Facilities


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.11 Stormwater management plan (Clause 25(2) WLEP 1995)

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 Stormwater disposal concept plan prepared by Archer + Wright Dwg No AW-14-010-124GA dated 01.09.14 other than amended by this and other conditions;
b) the discharge of stormwater into Sydney Harbour to be in accordance with the requirements of RMS/NSW Maritime water quality treatment;
c) compliance the objectives and performance requirements of the BCA;
d) any rainwater tank 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 14/12/2006)

The *Stormwater Management Plan* must include the following:

**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:

- All pipe layouts, dimensions, grades, lengths and material specification,
- 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,
- Copies of certificates of title, showing the creation of private easements to drain water by gravity, if required.
- Subsoil drainage details, clean out points, discharge point.

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

Standard Condition: C51
C.12 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 and the Building Code of Australia.

Approval is not granted for the modification of any boundary fencing beyond what is authorised by the stamped approved plans, as modified by any condition of consent or what is permitted to be carried out as ‘exempt development’ pursuant to State Environmental Planning Policy (Exempt & Complying Development Codes) 2008.

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.13 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

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 Adjoining buildings founded on loose foundation materials

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

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

Standard Condition: D6

D.3 Management Plan

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

A CMP must be submitted to and approved by Council’s Traffic and Transport Engineer. The plan must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:-

a) Detail the scope of the works to be completed including details of the various stages, e.g. Demolition, Excavation, Construction etc. and the duration of each stage.

b) Identify local traffic routes to be used by construction vehicles.

c) Identify ways to manage construction works to address impacts on local traffic routes.

d) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.

e) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access or reversing manoeuvres onto a public road and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.

f) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.

g) Provide for the standing of vehicles during construction.

h) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).

i) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
j) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.

k) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.

l) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.

m) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion? (Note: Oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.

n) Show the location of any proposed excavation and estimated volumes.

o) When excavation works are to be undertaken on school days, all vehicular movements associated with this work shall only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.

p) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).

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.4 Security Fencing, Hoarding and Overhead Protection

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

Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless the least horizontal distance between the common boundary and the nearest parts of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8 m adjacent to the thoroughfare.
Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either:

a) The vertical height above footpath level of the structure being demolished is less than 4.0 m; or  
b) 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:

a) Extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;  
b) 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.


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

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

**Standard Condition: D11**

**D.5 Site Signs**

The *Principal Contractor or owner builder* must ensure that the sign/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.6 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 downloaded free of charge from [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au).
**Note:** A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 **without any further warning.** It is a criminal offence to cause, permit or allow pollution.

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

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

**Standard Condition: D14**

### D.7 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.8 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

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**


**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.


E.7 Public Footpaths – Safety, Access and Maintenance

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 Maintenance of Environmental Controls

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

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

Standard Condition: E11

E.9 Support of adjoining land and buildings

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

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

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

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

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

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

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

Standard Condition: E13

E.10 Erosion and Sediment Controls – Maintenance

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

a) The Soil and Water Management Plan required under this consent;

b) “Do it Right On Site, Soil and Water Management for the Construction Industry” published by the Southern Sydney Regional Organisation of Councils, 2001; and


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

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

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

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.14 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 downloaded 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.15 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
Evidence such as weighbridge docket s 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 a landfill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

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**E.16 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.

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**E.17 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.
d) Hand excavation within tree root zones

Excavation undertaken within the specified radius from the trunks of the following trees shall be hand dug.

<table>
<thead>
<tr>
<th>Council Ref No</th>
<th>Species</th>
<th>Radius from Trunk (metres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Acmena smithii (Lillypilly)</td>
<td>2</td>
</tr>
<tr>
<td>2</td>
<td>Acmena smithii (Lillypilly)</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>Acmena smithii (Lillypilly)</td>
<td>2</td>
</tr>
</tbody>
</table>

Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or in excess of 30mm shall not be severed or damaged unless approved in writing by the project arborist.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the perimeter line is completed. Exposed roots to be retained shall be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

All root pruning must be undertaken in accordance with the Australian Standard 4373 “Pruning of Amenity Trees” and carried out by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 4 or recognised equivalent).

The project arborist shall document compliance with the above condition.

E.18 Asbestos Removal

Where hazardous material, including bonded or friable asbestos has been identified in accordance with condition B6 above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

- be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (restricted) Asbestos License,
- No asbestos products may be reused on the site
- No asbestos laden skip or bins shall be left in any public place

Note: This condition is imposed to protect the health and safety of persons working on the site and the public

Standard Condition: E39

E.19 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the Protection of the Environment Operations Act 1997 and the NSW DECC Waste Classification Guidelines, Part1: Classifying Waste (April 2008).
E.20 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with condition E 40 above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Note: This condition is imposed to ensure that asbestos and other Hazardous waste is disposed of lawfully under the Protection of the Environment Operations Act 1997 and relevant EPA requirements.
Standard Condition: E41

E.21 Asbestos Removal Signage

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site when asbestos is being removed.

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.
Standard Condition: E42

E.22 Notification of Asbestos Removal

All adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

Note: This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.
Standard Condition: E43

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

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

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

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

F.2 Commissioning and Certification of Systems and Works

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

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

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

Standard Condition: F7

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

No conditions.

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

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No.A192220_02.

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

Standard Condition: H7

H.2 Removal of Ancillary Works and Structures

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

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

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

Standard Condition: H12

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

I.1 Maintenance of BASIX commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No.A192220_02.

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: I24

I.2 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.


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

Standard Condition: I56

I.3 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 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:
  ISBN 0 7313 2715 2, dated January 2000, and

**J. Miscellaneous Conditions**

No conditions

**K. Advisings**

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

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


Standard Advising: K1
K.2 Dial before you dig

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

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

Standard Advising: K2

K.3 Builders Licences and Owner Builders Permits

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

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

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

Standard Condition: K5

K.4 Building Standards - Guide to Standards and Tolerances

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

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

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

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

Standard Condition: K6

K.5 Workcover requirements

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

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

Standard Condition: K7

K.6 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Ms S Richards, Senior Assessment Officer, on (02) 9391 7064.

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

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

Standard Condition: K14

K.7 Release of Security

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

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

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

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

Upon completion of each section of road, drainage and landscape work to Council’s satisfaction, 90% of the Bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.
K.8 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.

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 Elsing
Councillor Levenston
Councillor Marano
Councillor Zeltzer

Against the Motion

Nil

5/0

D4 DA552/2014 - 46 The Crescent, Vaucluse – Alterations & additions including excavation of the existing lower ground floor level, new attic level, conversion of the area below the existing eastern garage to a granny flat, new pool deck & associated landscaping works – 9/12/2014

(Levenston/Elsing)

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 objection under State Environmental Planning Policy No. 1 – Development Standards to the Height development standard under Clause 12 of Woollahra LEP 1995 is well founded. The Council is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case.

AND

THAT the Council, as the consent authority, being satisfied that the objection under SEPP No. 1 is well founded and also being of the opinion that it is consistent with the aims of the Policy, grant development consent to Development Application No. 552/2014 for alterations and additions including excavation of the existing lower ground floor level, new attic level, conversion of the existing east garage to a granny flat, new pool deck and associated landscaping works on land at 46 The Crescent, Vaucluse subject to the following conditions:
A. General Conditions

A.1 Conditions

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

Standard Condition: A1

A.2 Definitions

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

Applicant means the applicant for this Consent.

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

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

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

Council means Woollahra Municipal Council

Court means the Land and Environment Court

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

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

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.

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Author/Drawn</th>
<th>Date(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DD-000 (Rev C)</td>
<td>Architectural Plans</td>
<td>SJB Architects</td>
<td>24.11.2014</td>
</tr>
<tr>
<td>DD-001 (Rev C)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DD-002 (Rev C)</td>
<td></td>
<td></td>
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<tr>
<td>DD-003 (Rev C)</td>
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<td>DD-100 (Rev C)</td>
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<td>DD-101 (Rev C)</td>
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<td>DD-300 (Rev C)</td>
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<td>DD-301 (Rev C)</td>
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<td>DD-302 (Rev C)</td>
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<td>DD-303 (Rev C)</td>
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</tr>
<tr>
<td>DD-501 (Rev C)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A178020_02</td>
<td>BASIX Certificate</td>
<td>NSW Department of Planning and Infrastructure</td>
<td>18 Nov 2014</td>
</tr>
<tr>
<td>73805</td>
<td>Geotechnical Report</td>
<td>Douglas Partners</td>
<td>Jan 2014</td>
</tr>
</tbody>
</table>
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 Development Consent is not granted in relation to these matters

This approval does not give consent to any change to the streetscape presentation of the existing western garage. The reconstructed roof and walls must match the form and appearance of the existing.

Standard Condition: A9

A.5 Separate Domicile

The granny flat (located below the eastern garage) must not be used as a separate domicile.

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 Identification of Hazardous Material

In accordance with Australian Standard AS2601- ‘The Demolition of Structures’ the owner shall identify all hazardous substances located on the site including asbestos, Polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per Clause 1.6.1 of the Standard. In this regard, prior to the commencement of any work, Council shall be provided with a written report prepared by a suitably qualified competent person detailing:

- all hazardous materials identified on the site;
- the specific location of all hazardous materials identified;
- whether the hazardous materials are to be removed from the site as part of the works to be undertaken; and
- safety measures to be put in place.

Note: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.

Standard Condition: B6
C. Conditions which must be satisfied prior to the issue of any construction certificate

C.1 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.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Indexed</th>
<th>Council Fee Code</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LONG SERVICE LEVY</strong> under Building and Construction Industry Long Service Payments Act 1986</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>SECURITY</strong> under section 80A(6) of the Environmental Planning and Assessment Act 1979</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property Damage Security Deposit -making good any damage caused to any property of the Council</td>
<td>$14,361</td>
<td>No</td>
<td>T115</td>
</tr>
<tr>
<td>Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)</td>
<td>$418</td>
<td>No</td>
<td>T45</td>
</tr>
<tr>
<td><strong>DEVELOPMENT LEVY</strong> under Woollahra Section 94A Development Contributions Plan 2011</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development Levy (Section 94A)</td>
<td>$5,500 + Index Amount</td>
<td>Yes, quarterly</td>
<td>T96</td>
</tr>
<tr>
<td><strong>INSPECTION FEES</strong> under Section 608 of the Local Government Act 1993</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Security Administration Fee</td>
<td>$185</td>
<td>No</td>
<td>T16</td>
</tr>
<tr>
<td>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</td>
<td>$20,464 plus any relevant indexed amounts and long service levy</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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.longservice.nsw.gov.au/](http://www.longservice.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.2 BASIX commitments

The applicant must submit to the Certifying Authority BASIX Certificate No.A178020_02 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.3 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

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

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

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

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

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

Standard Condition: C25

C.4 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.5 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.6 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.7 Stormwater discharge to existing Stormwater Drainage System (Clause 25(2) WLEP 1995)

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

a) The location of the existing Stormwater Drainage System including all pipes, inspection openings, surface drains, pits and their discharge location.

b) The state of repair of the existing Stormwater Drainage System,

c) Any remedial works required to upgrade the existing Stormwater Drainage System to comply with the BCA.
d) Any remedial works required to upgrade the existing Stormwater Drainage System crossing the footpath and any new kerb outlets,
d) Any new Stormwater Drainage System complying with the BCA,
f) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath,
g) Any rainwater tank (See Note Below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System, and
h) General compliance with the Council’s draft Development Control Plan Stormwater Drainage Management (Draft Version 1.1, Public Exhibition Copy dated 14 December 2006)

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

All Stormwater Drainage System work within any road or public place must comply with Woollahra Municipal Council’s Specification for Roadworks, Drainage and Miscellaneous Works dated February 2012.

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

Note: The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230-2008 “Rainwater Tank Design and Installation Handbook”.

Note: Stormwater Drainage Systems must not discharge to any Sewer System. It is illegal to connect stormwater pipes and drains to the sewerage system as this can overload the system and cause sewage overflows. See:

Note: Woollahra Municipal Council’s Specification for Roadworks, Drainage and Miscellaneous Works dated January 2003 and Council’s draft Development Control Plan Stormwater Drainage Management (Draft Version 1.1, Public Exhibition Copy dated 14/12/2006) can be downloaded from Council’s website:
www.woollahra.nsw.gov.au

Standard Condition: C49

C.8 Stormwater management plan (Site greater than 500m²)(Clause 25(2) WLEP 1995)

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 Stormwater plan, Dwg DD-008 by SJB Planning other than amended by this and other conditions;
b) the discharge of stormwater, by direct connection, via outlets to The Crescent.
c) compliance the objectives and performance requirements of the BCA;
d) any rainwater tank required by BASIX commitments including their overflow connection to the Stormwater Drainage System, and
e) general compliance with the Council’s draft Stormwater Development Control Plan

The Stormwater Management Plan must include the following:

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:
• All pipe layouts, dimensions, grades, lengths and material specification,
• All invert levels reduced to Australian Height Datum (AHD),
• Location and dimensions of all drainage pits,
• Point and method of connection to Councils drainage system.
• Copies of certificates of title, showing the creation of private easements to drain water by gravity, if required.
• Subsoil drainage details, clean out points, discharge point.

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

Standard Condition: C51

C.9 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 and the Building Code of Australia.

Approval is not granted for the modification of any boundary fencing beyond what is authorised by the stamped approved plans, as modified by any condition of consent or what is permitted to be carried out as ‘exempt development’ pursuant to State Environmental Planning Policy (Exempt & Complying Development Codes) 2008.

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

Standard Condition: C55

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

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

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

a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,

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

This condition does not apply:

a) to the extent to which an exemption is in force under 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)

- 44 The Crescent
- 48 The Crescent

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 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:

a) The vertical height above footpath level of the structure being demolished is less than 4.0 m; or
b) 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:

a) Extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
b) 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/oheadprotstructs.htm.

Security fencing, hoarding and overhead protective structure must not obstruct access to utilities services including but not limited to man holes, pits, stop valves, fire hydrants or the like.
Note: The principal contractor or owner must allow not less than two (2) weeks from the date of making a hoarding application for determination. Any approval for a hoarding or overhead protection under the Roads Act 1993 will be subject to its own conditions and fees.

Standard Condition: D11

D.4 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.5 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

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 downloaded 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.6 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.7 Erosion and Sediment Controls – Installation**

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

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

Where there is any conflict The Blue Book takes precedence.

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

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

**Note:** A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 **without any further warning**. It is a criminal offence to cause, permit or allow pollution.
Note: Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”

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

Standard Condition: D14

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

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

a) A construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited Certifier, and

b) The person having the benefit of the development consent has:
   • 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.9 Notification of Home Building Act 1989 requirements

a) For the purposes of section 80A (11) of the Act, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.

b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- 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.

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


Standard Condition: E2

E.3 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.4 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.5 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 outside the approved hours of work will be considered on a case by case basis.

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


Standard Condition: E6

E.6 Public Footpaths – Safety, Access and Maintenance

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.7 Maintenance of Environmental Controls

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

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


Standard Condition: E11

E.8 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;

a) the location and type of monitoring systems to be utilised;
b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer; and
c) 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.9 Support of adjoining land and buildings

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

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

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

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

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

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

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

Standard Condition: E13

E.10 Erosion and Sediment Controls – Maintenance

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

a) The Soil and Water Management Plan required under this consent;
b) “Do it Right On Site, Soil and Water Management for the Construction Industry” published by the Southern Sydney Regional Organisation of Councils, 2001; and

Where there is any conflict The Blue Book takes precedence.
E.11 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: E15

E.12 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.13 Dust Mitigation

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

This generally requires:

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

Note: “Dust Control - Do it right on site” can be downloaded 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.

E.14 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 and Building Code of Australia 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 and the Building Code of Australia 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.

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.
F.2 Swimming and Spa Pools – Permanent Child Resistant Barriers and other matters

Prior to filling any swimming pool, as defined by the Swimming Pools Act 1992:


c) The Principal Contractor or owner must either obtain a ‘Certificate of Compliance’ issued pursuant to Section 22D of the Swimming Pools Act 1992 or an appropriate Occupation Certificate authorising use of the swimming pool.

d) 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.

e) 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.


Standard Condition: F13

F.3 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

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

No applicable conditions.

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

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No.A178020_02.

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

Standard Condition: H7

H.2 Removal of Ancillary Works and Structures

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

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

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

Standard Condition: H12

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

I.1 Maintenance of BASIX commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No.A178020_02.

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: I24
J. Miscellaneous Conditions

No applicable conditions.

K. Advisings

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

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


**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”):


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 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):

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

Standard Condition: K5

K.5 Workcover requirements

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

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

Standard Condition: K7

K.6 Asbestos Removal, Repair or Disturbance

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW.
Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

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

a) The Occupational Health and Safety Act 2000;
b) The Occupational Health and Safety Regulation 2001;

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

Standard Advising: K8

K.7 Lead Paint


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

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

Standard Advising: K9

K.8 Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the Dividing Fences Act 1991. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.
**K.9 Release of Security**

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

The securities will not be released until a Final Occupation Certificate has lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council’s requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council’s requirements. Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council’s satisfaction as the case may be.

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

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


**K.10 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 requested 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 PCA 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.
K.11 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Lauren Samuels, Assessment Officer, on (02) 9391 7075.

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

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

<table>
<thead>
<tr>
<th>For the Motion</th>
<th>Against the Motion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Councillor Bennett</td>
<td>Nil</td>
</tr>
<tr>
<td>Councillor Elsing</td>
<td></td>
</tr>
<tr>
<td>Councillor Levenston</td>
<td></td>
</tr>
<tr>
<td>Councillor Marano</td>
<td></td>
</tr>
<tr>
<td>Councillor Zeltzer</td>
<td></td>
</tr>
</tbody>
</table>

5/0

D5  DA455/2014 - 11/453 Glenmore Road, Paddington – Alterations including new attic addition, new dividing wall, new skylights & stairs – 27/10/2014

(Elsing/Levenston)

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 – Development Standards to the floor space ratio development standard under Clause 11 of Woollahra LEP 1995 and maximum building height development standard under Clause 12 of Woollahra LEP 1995 are well founded.

The Council is also of the opinion that strict compliance with the development standards are unreasonable and unnecessary in the circumstances of this case as the proposal does not alter the existing building height or building envelope and accordingly the proposed utilisation of the roof void area located above the subject unit to facilitate a new attic level is an acceptable circumstance to permit the proposed floor space ratio and building height variations in this instance.

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. 455/2014 on land at 11/453 Glenmore Road 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, piering, 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.
<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Author/Drawn</th>
<th>Date(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DA-102 Rev A</td>
<td>Proposed Roof Plan</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DA-201 Rev A</td>
<td>Proposed North Elevation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DA-202 Rev A</td>
<td>Proposed East Elevation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DA-301 Rev A</td>
<td>Proposed Section AA &amp; BB</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DA-302 Rev A</td>
<td>Proposed Section CC</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No. A197135</td>
<td>BASIX Certificate</td>
<td>NSW Department of Planning and</td>
<td>27 Aug 2014</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Infrastructure prepared by Bureau SRH</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Pty Ltd</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Site Waste Minimisation and</td>
<td>Thomas Novakovic Bureau SRH Pty Ltd.</td>
<td>27 Oct 2014</td>
</tr>
<tr>
<td></td>
<td>Management Plan</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

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

Standard Condition: A5

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

B.1 Construction Certificate required prior to any demolition

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

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

Standard Condition: B1

B.2 Identification of Hazardous Material

In accordance with Australian Standard AS2601- ‘The Demolition of Structures’ the owner shall identify all hazardous substances located on the site including asbestos, Polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per Clause 1.6.1 of the Standard. In this regard, prior to the commencement of any work, Council shall be provided with a written report prepared by a suitably qualified competent person detailing:

- all hazardous materials identified on the site;
- the specific location of all hazardous materials identified;
- whether the hazardous materials are to be removed from the site as part of the works to be undertaken; and
- safety measures to be put in place.

**Note:** This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.

Standard Condition: B6
C. Conditions which must be satisfied prior to the issue of any construction certificate

C.1 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.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Indexed</th>
<th>Council Fee Code</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LONG SERVICE LEVY</strong> under Building and Construction Industry Long Service Payments Act 1986</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Long Service Levy</td>
<td>$4826.00</td>
<td>No</td>
<td>T115</td>
</tr>
<tr>
<td></td>
<td>Contact LSL Corporation or use online calculator</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>SECURITY</strong> under section 80A(6) of the Environmental Planning and Assessment Act 1979</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property Damage Security Deposit -making good any damage caused to any property of the Council</td>
<td>$4826.00</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td><strong>DEVELOPMENT LEVY</strong> under Woollahra Section 94A Development Contributions Plan 2011</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development Levy (Section 94A)</td>
<td>$602.64 + Index Amount</td>
<td>Yes, quarterly</td>
<td>T96</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>INSPECTION FEES</strong> under Section 608 of the Local Government Act 1993</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Security Administration Fee</td>
<td>$185</td>
<td>No</td>
<td>T16</td>
</tr>
<tr>
<td>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</td>
<td>$5613.64 plus any relevant indexed amounts and long service levy</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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.longservice.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.2 BASIX commitments

The applicant must submit to the Certifying Authority BASIX Certificate No. A197135 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.3 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.4 Professional Engineering Details**

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

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

**Note:** This does not affect the right of the developer to seek staged Construction Certificates.

**Standard Condition: C36**

**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 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:

a) The vertical height above footpath level of the structure being demolished is less than 4.0 m; or

b) 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:

a) Extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;

b) 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/overheadproestruct.htm.

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

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

Standard Condition: D11

D.3 Site Signs

The Principal Contractor or owner builder must ensure that the sign/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.4 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.5 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.6 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

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

Standard Condition: E2

E.3 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.4 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.5 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 outside the approved hours of work will be considered on a case by case basis.

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


Standard Condition: E6

E.6 Public Footpaths – Safety, Access and Maintenance

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:
  - For fee or reward, transport waste over or under a public place
  - Place waste in a public place
  - Place a waste storage container in a public place.”
- Part E Public roads:
  - 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
  - Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.”
  - Any work in, on or over the Road or Footway requires Council Approval and in the case of classified roads the NSW Roads and Traffic Authority. Road includes that portion of the road uses as a footway.

**E.7 Maintenance of Environmental Controls**

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

a) Erosion and sediment controls,

b) Dust controls,

c) Dewatering discharges,

d) Noise controls;

e) Vibration monitoring and controls;

f) Ablutions;


**E.8 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**.

**E.9 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.

**E.10 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.11 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.12 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 downloaded free of charge from Council’s web site [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or obtained from Council’s office.

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

**Note:** 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.13 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 a landfill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

Standard Condition: E31

E.14 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.15 Asbestos Removal

Where hazardous material, including bonded or friable asbestos has been identified in accordance with condition B6 above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

- be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (restricted) Asbestos License,
- No asbestos products may be reused on the site
- No asbestos laden skip or bins shall be left in any public place

Note: This condition is imposed to protect the health and safety of persons working on the site and the public

Standard Condition: E39

E.16 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the Protection of the Environment Operations Act 1997 and the NSW DECC Waste Classification Guidelines, Part 1: Classifying Waste (April 2008).

Note: This condition is imposed to ensure that where hazardous waste will be removed from a site an Asbestos Licensed contractor can definitively determine where the waste may be legally taken for disposal.

Standard Condition: E40

E.17 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with condition E 40 above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Note: This condition is imposed to ensure that asbestos and other Hazardous waste is disposed of lawfully under the Protection of the Environment Operations Act 1997 and relevant EPA requirements.

Standard Condition: E41

E.18 Asbestos Removal Signage

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site when asbestos is being removed.

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.

Standard Condition: E42
E.19 Notification of Asbestos Removal

All adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

Note: This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.

Standard Condition: E43

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

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

Nil

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

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No. A197135.

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

Standard Condition: H7

H.2 Removal of Ancillary Works and Structures

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

a) The site sign;

b) Ablutions;

c) Hoarding;

d) Scaffolding; and

e) Waste materials, matter, article or thing.

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

Standard Condition: H12
I. Conditions which must be satisfied during the ongoing use of the development

I.1 Maintenance of BASIX commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. A197135.

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: I24

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:


Standard Advising: K1
K.2 Dial before you dig

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

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

Standard Advising: K2

K.3 Builders Licences and Owner Builders Permits

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

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

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

Standard Condition: K5

K.4 Building Standards - Guide to Standards and Tolerances

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

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

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

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

Standard Condition: K6

K.5 Workcover requirements

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

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

Standard Condition: K7

K.6 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.7 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr Mario D’Alessio, Assessment Officer, on (02) 9391 7120.

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.8 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.


Standard Condition: K15

K.9 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.10 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.11 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
Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

<table>
<thead>
<tr>
<th>For the Motion</th>
<th>Against the Motion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Councillor Bennett</td>
<td>Nil</td>
</tr>
<tr>
<td>Councillor Elsing</td>
<td></td>
</tr>
<tr>
<td>Councillor Levenston</td>
<td></td>
</tr>
<tr>
<td>Councillor Marano</td>
<td></td>
</tr>
<tr>
<td>Councillor Zeltzer</td>
<td></td>
</tr>
</tbody>
</table>

5/0

D6 DA297/2014 – 144-146 Edgecliff Road, Woollahra – Alterations & additions to the existing mixed use building including additions to the rear of the ground floor commercial tenancies & alterations to create a two bedroom unit on the 1st floor, landscaping works – 23/7/2014

(Elsing/Levenston)

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 objection made under State Environmental Planning Policy No.1 – Development Standards to the maximum floor space ratio (1:1) development standard under Clause 11 of the Woollahra Local Environmental Plan 1995 is well founded. The Council is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as case as the development will not create any unacceptably adverse impacts on the subject, adjoining sites or locality in general and will achieve the objectives of the standards.

AND

THAT the Council, as the consent authority, being satisfied that the objection made under State Environmental Planning Policy No.1 – Development Standards is 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. 297/2014 for alterations and additions to the existing mixed use building including additions to the rear of the ground floor commercial tenancies and alterations to create a two bedroom unit on the first floor; landscaping works on land at 144-146 Edgecliff Road, Woollahra, 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 and 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, piering, 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.

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Author/Drawn</th>
<th>Date(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DA01, DA02, DA03, DA06, DA07, DA08</td>
<td>Architectural Plans</td>
<td>Weir Phillips Architects</td>
<td>17 July 2014</td>
</tr>
<tr>
<td>A193818</td>
<td>BASIX Certificate</td>
<td>NSW Department of Planning and Infrastructure</td>
<td>18 July 2014</td>
</tr>
<tr>
<td>E26383K-RAPREV1</td>
<td>Remediation Action Plan</td>
<td>Environmental Investigation Services</td>
<td>18 Jul 2013</td>
</tr>
<tr>
<td>MGH 116</td>
<td>Site Audit Statement</td>
<td>Environ Australia PL</td>
<td>25 Jul 2013</td>
</tr>
<tr>
<td>DA10</td>
<td>Landscape Plan</td>
<td>Weir Phillips Architects</td>
<td>17 July 2014</td>
</tr>
<tr>
<td>BAB16_wastemghtplan</td>
<td>Waste Management Plan</td>
<td>-</td>
<td>17 July 2014</td>
</tr>
</tbody>
</table>

**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 (Section 80A(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 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 shall be retained

- Trees on Council Land

<table>
<thead>
<tr>
<th>Council Ref No</th>
<th>Species</th>
<th>Location</th>
<th>Dimension (metres)</th>
<th>Tree Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Cinnamomum camphora</td>
<td>Council verge – Grosvenor Street</td>
<td>11 x 8</td>
<td>$0</td>
</tr>
</tbody>
</table>

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

A.6 Modification of Development Consent (Section 80A(1)(b) and Section 80A(5) of the Act)

This development consent serves to amend development consent DA 36/2013 as indicated in the architectural plans and documentation referenced in Condition A.3 of this development consent.

In the event of any inconsistencies between the approved plans for development consent DA 36/2013 and the architectural plans for DA 297/2014 referenced in Condition A.3 of this development consent, development consent DA 297/2014 prevails.

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

This approval does not give consent to any change of use to the ground floor business and retail tenancies. A separate Development Consent or Complying Development Certificate and Part 4A Certificates, as appropriate, will need to be obtained prior to any such development work commencing.

Standard Condition: A9
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) Trunk protection shall be installed around the trunks of the following trees:

<table>
<thead>
<tr>
<th>Council Ref No</th>
<th>Species</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Cinnamomum camphora Camphor Laurel</td>
</tr>
</tbody>
</table>

Trunk protection shall consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x 100mm 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.

b) 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.

c) 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 Condition B.2 of this consent.

d) Establishment of Ground protection

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 Condition B.2 of this consent. Appropriate ground protection shall be installed under the supervision of the site arborist.

e) All site personnel and contractors must be made aware of all tree protection requirements associated with these conditions of consent.

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

Standard Condition: B5
B.3 Identification of Hazardous Material

In accordance with Australian Standard AS2601- ‘The Demolition of Structures’, the person or persons with the benefit of this development consent must identify all hazardous substances located on the site including asbestos, Polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per Clause 1.6.1 of the Standard. In this regard, prior to the commencement of any work, Council shall be provided with a written report prepared by a suitably qualified competent person detailing:

- All hazardous materials identified on the site;
- The specific location of all hazardous materials identified;
- Whether the hazardous materials are to be removed from the site as part of the works to be undertaken; and
- Safety measures to be put in place.

Note: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.

Standard Condition: B6

B.4 Noise Objectives during demolition works

To assist in managing impacts of noise from the demolishing of the existing dwelling and outbuilding on residences and other sensitive land uses, the NSW Department of Environment & Climate Change: Construction Noise Guideline must be applied to the site to provide a quantitative and qualitative assessment for evaluating performance and compliance of resultant noise from demolishing works of the existing dwelling and outbuilding. In particular, reference is made to Table 2 of the NSW Department of Environment & Climate Change: Construction Noise Guideline which sets out management levels for noise at residences and other sensitive land uses.

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 new window W1 must be provided with obscure glazing to a height of 1.7 metres above the associated finished floor levels.

b) The roof cladding to the new rear ground floor additions must be of a traditional corrugated profile.

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.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Indexed</th>
<th>Council Fee Code</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LONG SERVICE LEVY</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>under <em>Building and Construction Industry Long Service Payments Act, 1986</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Long Service Levy</td>
<td>Contact LSL Corporation or use online calculator</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td><strong>SECURITY</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>under Section 80A(6) of the <em>Environmental Planning and Assessment Act, 1979</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property Damage Security Deposit -making good any damage caused to any property of the Council</td>
<td>$6,924</td>
<td>No</td>
<td>T115</td>
</tr>
<tr>
<td><strong>DEVELOPMENT LEVY</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>under Woollahra Section 94A Development Contributions Plan 2011</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>This plan may be inspected at Woollahra Council or downloaded at <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development Levy (Section 94A)</td>
<td>$2,150</td>
<td>+ Index Amount</td>
<td>Yes, quarterly</td>
</tr>
<tr>
<td><strong>INSPECTION FEES</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>under Section 608 of the <em>Local Government Act, 1993</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Security Administration Fee</td>
<td>$185</td>
<td>No</td>
<td>T16</td>
</tr>
<tr>
<td>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</td>
<td>$9,259 plus any relevant indexed amounts and long service levy</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**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.longservice.nsw.gov.au/](http://www.longservice.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 Section 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 Certificate No.A193818 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 and 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 Building upgrade (Clause 94 of the Regulation)

Council considers pursuant to Clause 94 of the Regulation that it is appropriate to require the existing building to be brought into total or partial conformity with the BCA.

The Construction Certificate plans and specification required to be submitted to the Certifying Authority pursuant to Clause 139 of the Regulation must detail building upgrade works required by this condition.

The Certifying Authority must be satisfied that such work, to be implemented as part of the development, will upgrade the building to bring it into compliance with the following provisions of the BCA as in force at the date of the Construction Certificate application:

a) That the commercial premises on the ground floor shall be separated in fire-resisting construction from the residential portion of the building above in accordance with the requirements of Type “A” Specification C1.1, Table 3 of the BCA;

b) That the residential sole occupancy units shall be separated in fire-resisting construction from the other sole occupancy units in accordance with the requirements of Specification C1.1, Table 3 of the BCA;

c) That walls and openings within 3 metres from a fire source feature shall be protected in accordance with the requirements of Specification C1.1 or openings protected in accordance with Clause C3.4 of the BCA, unless shielded by another part of the building with construction achieving an FRL of 30/-/-;

d) That openings within 3 metres of the boundary shall be protected in accordance with the requirements of Clause C3.4 of the BCA;

e) That smoke alarms shall be installed throughout the building in accordance with the requirements Table E2.2a of the BCA;

f) That the commercial premises on the ground floor shall be made fully accessible in accordance with the requirements of Part D3 of the BCA and AS 1428.1-2009: Design for access and mobility - General requirements for access - New building work; and

g) That the required exits and associated discharge to open space shall comply with the requirements of Section D of the BCA.

Note: The Certifying Authority issuing the Construction Certificate has no power to remove the requirement to upgrade the existing building as required by this condition. Where this conditions specifies compliance with performance requirements of the BCA the Certifying Authority, subject to their level of accreditation, may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (deemed to satisfied) provisions of the BCA these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed under Section 82A or amended under Section 96 of the Act.

Note: This condition does not set aside the Certifying Authorities responsibility to ensure compliance with Clause 143 of the Regulation in relation to Fire Protection and Structural Adequacy.

Note: AS 4655 Guidelines for fire safety audits for buildings (or any succeeding Australian Standard) should form the basis of any fire upgrade report.

Standard Condition: C10

C.5 Waste Storage – Mixed Developments (both commercial and residential)

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;
b) Two separate waste and recycling rooms or areas, one for commercial waste and one for residential waste. They must be enclosed / self-contained and have separate keys and locking systems;
c) The path for wheeling bins between the waste and recycling storage area and the collection point must be free of steps and kerbs and having a maximum grade of 1:8;
d) Bins to be stored with lids down to prevent vermin from entering the waste containers;
e) Smooth impervious floor graded to a floor waste and provided with a tap and hose to facilitate regular cleaning of the bins. 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;
f) 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;
g) 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;
h) Odour problems must be minimised by exhaust ventilation;
i) 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; and
j) 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: C18

C.6 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.7 Soil and Water Management Plan – Submission and 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
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/](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:* Pursuant to Clause 161(1)(a)(5) of the *Regulation* an *Accredited Certifier* may satisfied as to this matter.

Standard Condition: C25

### C.8 Tree Management Details

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

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

Standard Condition: C30

### C.9 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.10 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.11 Stormwater discharge to existing Stormwater Drainage System (Clause 25(2) WLEP 1995)

The Construction Certificate plans and specifications required by Clause 139 of the Regulation must detail:

a) The location of the existing Stormwater Drainage System including all pipes, inspection openings, surface drains, pits and their discharge location;

b) The state of repair of the existing Stormwater Drainage System;

c) Any remedial works required to upgrade the existing Stormwater Drainage System to comply with the BCA;

d) Any remedial works required to upgrade the existing Stormwater Drainage System crossing the footpath and any new kerb outlets;

e) Any new Stormwater Drainage System complying with the BCA;

f) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath;

g) Any rainwater tank (See Note Below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System; and

h) General compliance with the Council’s draft Development Control Plan Stormwater Drainage Management (Draft Version 1.1, Public Exhibition Copy dated 14 December 2006).

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

All Stormwater Drainage System work within any road or public place must comply with Woollahra Municipal Council’s Specification for Roadworks, Drainage and Miscellaneous Works dated February 2012.

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

Note: The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230-2008 “Rainwater Tank Design and Installation Handbook”.

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


Standard Condition: C49
C.12 Light and 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.

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. Applicants 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.13 Design sound levels for building interiors

Design sound levels for building interiors should 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

C.14 General Ventilation

All internal sanitary rooms and laundry facilities not provided with natural ventilation, must be provided with a system of mechanical exhaust ventilation in accordance with Table B1 “Minimum Exhaust Ventilation Flow Rates” of AS 1668.2-1991. Details of any proposed mechanical ventilation system(s) being submitted with the Construction Certificate plans and specifications, required to be submitted to the Certifying Authority demonstrating compliance with AS 1668 Parts 1 and 2.
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; and
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; or
b) To the erection of a temporary building.

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

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

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

D.2 Adjoining buildings founded on loose foundation materials

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

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

D.3 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 of a 1.8 metre 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 metres 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:

a) The vertical height above footpath level of the structure being demolished is less than 4.0 metres; or
b) 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:

a) Extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;

b) Have a clear height above the footpath of not less than 2.1 metres;

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 metre 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:


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.4 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.
D.5 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.

D.6 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 downloaded 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.7 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (Section 81A(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.8 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; and
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.9 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; and

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**


**Standard Condition: E2**

**E.3 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.4 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.5 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; and

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 outside the approved hours of work will be considered on a case by case basis.

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


Standard Condition: E6

E.6 Public Footpaths – Safety, Access and Maintenance

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 1.5 metres wide; and
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; and
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; or
- 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; or
  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; or
  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.7 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) 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 “Pruning of Amenity Trees” and WorkCover NSW Code of Practice Amenity Tree Industry.

Standard Condition: E8

E.8 Maintenance of Environmental Controls

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

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


Standard Condition: E11

E.9 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

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).

c. An easement under Section 88K of the Conveyancing Act, 1919; or

d. An easement under Section 40 of the Land and Environment Court Act, 1979 as appropriate.

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

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

Standard Condition: E13

E.10 Erosion and Sediment Controls – Maintenance

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

a) The Soil and Water Management Plan required under this consent;

b) “Do it Right On Site, Soil and Water Management for the Construction Industry” published by the Southern Sydney Regional Organisation of Councils, 2001; and


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.11 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; and

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.12 Filling of site

To the extent that this consent permits filling of the site such fill must be virgin excavated natural material (“VENM”).

**Note:** This definition is the same as in Schedule 1 of the Protection of the Environment Operations Act, 1997, Appendix IX: Types of waste.

**Note:** Sulphidic ores and soils are commonly known as Acid Sulphate Soils.

**Note:** If a person transports waste to a place (the site) that cannot lawfully be used as a waste facility for that waste: (a) the person, and, (b) if the person is not the owner of the waste, the owner, are each guilty of an offence under Section 143 of the Protection of the Environment Operations Act, 1997.

**Note:** A person who is the owner or occupier (principal contractor) of any land that cannot lawfully be used as a waste facility and who permits the land to be used as a waste facility is guilty of an offence under Section 144 of the Protection of the Environment Operations Act, 1997.

**Note:** Additional information is available from the following websites:
- [Illegal waste dumping](http://www.epa.nsw.gov.au/waste/dumping.htm)

Standard Condition: E18

E.13 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 and 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.14 Check Surveys - boundary location, building location, building height and stormwater drainage system relative to Australian Height Datum**

The *Principal Contractor or Owner Builder* must ensure that a surveyor registered under the *Surveying Act, 2002* carries out check surveys and provides survey certificates confirming the location of the building(s), ancillary works and the stormwater drainage system relative to the boundaries of the *site* and that the height of buildings, ancillary 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 or the like;

e) Stormwater Drainage Systems prior to back filling over pipes confirming location, height and capacity of works.

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

**Standard Condition: E20**

**E.15 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

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**E.16 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

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**E.17 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; and

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](http://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](http://www.workcover.nsw.gov.au) and [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au). Other specific condition and advice may apply.

**Note:** 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

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**E.18 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; and

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; and

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 a landfill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

Standard Condition: E31

E.19 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; and

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.20 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; and

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.21 Asbestos Removal

Where hazardous material, including bonded or friable asbestos has been identified in accordance with Standard Condition B6 above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

- Be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (restricted) Asbestos License;"
- No asbestos products may be reused on the site; and
- No asbestos laden skip or bins shall be left in any public place.

Note: This condition is imposed to protect the health and safety of persons working on the site and the public.

Standard Condition: E39

E.22 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the Protection of the Environment Operations Act, 1997 and the NSW DECC Waste Classification Guidelines, Part 1: Classifying Waste (April 2008).

Note: This condition is imposed to ensure that where hazardous waste will be removed from a site an Asbestos Licensed contractor can definitively determine where the waste may be legally taken for disposal.

Standard Condition: E40

E.23 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with Standard Condition E40 above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Note: This condition is imposed to ensure that asbestos and other Hazardous waste is disposed of lawfully under the Protection of the Environment Operations Act, 1997 and relevant EPA requirements.

Standard Condition: E41
E.24 Asbestos Removal Signage

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site when asbestos is being removed.

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.
Standard Condition: E42

E.25 Notification of Asbestos Removal

All adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

Note: This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.
Standard Condition: E43


During demolishing works, no equipment, building materials or other articles are to be used or placed in a manner on or off the site that will cause or likely to cause a ‘pollution incident’ as defined under the Protection of the Environment Operations Act, 1997.

E.27 Site Remediation

Any remediation, capping and containment of contaminated material on the site must be carried out in accordance with the remediation strategy and methodology outlined in the following Remediation Action Plan:


The remediation work must also be carried out in accordance with Clauses 17(1)(a) and (b) of State Environmental Planning Policy No.55 – Remediation of Land, which require compliance with:

a) The contaminated land planning guidelines for State Environmental Planning Policy No.55 – Remediation of Land; and
b) The guidelines (if any) in force under the Contaminated Land Management Act, 1997.

A notice of completion of remediation work on any land must be given Council within thirty (30) days after the completion of the work in accordance with Clauses 17(2) and 18 of State Environmental Planning Policy No.55 – Remediation of Land. This notice must:

a) Be in writing prepared and signed by the person who carried out the work;
b) Provide the person’s name, address and business telephone number;
c) Provide details of the person’s qualifications to carry out the work;
d) Specify, by reference to its property description and street address of the land on which the work was carried out;

e) Provide a map of the location of the land;

f) State when the work was completed;

g) Specify the uses of the land, and the substances, that contaminated it in such a way as to present a risk of harm to human health or some other aspect of the environment;

h) Specify the uses of the land immediately before the work started;

i) Briefly describe the method of remediation used in the work;

j) Specify the guidelines that were complied with in the work;

k) Specify the standard of remediation achieved (in the light of the use proposed for the land);

l) Show in what manner the work complied with the conditions of the relevant development consent; and

m) State what action must be maintained in relation to the land after the completion of the remediation work if the standard of remediation achieved is to be maintained.

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 Amenity Landscaping

The owner or principal contractor must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

Note: This condition has been imposed to ensure that the environmental impacts of the development are mitigated by approved landscaping prior to any occupation of the development.

Standard Condition: F3

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) All stormwater drainage and storage systems.

b) All mechanical ventilation systems.

c) All hydraulic systems.

 d) All structural work.

 e) All acoustic attenuation work.

f) All waterproofing.

g) All remediation work.

h) 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 executed is maintained.

Note: The PCA may require any number of works-as-executed (“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 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: F4

F.5 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: F5
F.6 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.7 New Waste Services

No occupation certificate must be issued until the owner/developer has procured the provision of required wastes services including purchase of all waste and recycling storage containers (bins and crates) from Council or otherwise in accordance with the approved Waste Management Plan.

Standard Condition: F19

F.8 Notice of completion of category 1 remediation work

Pursuant to Cause 17 of State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55), notice of completion of a category 1 remediation work must be given to the council within 30 days after the completion of the work

This notice must be in accordance with Clause 18 of SEPP 55.

Note: Category 1 remediation work is defined in Clause 9 of SEPP 55.

F.9 Positive Covenant for encapsulated contamination

A positive covenant must be registered on the title of the land to Council’s satisfaction, prior to the issue of any Occupation Certificate. The covenant must specify the following:

a) Giving notice of the former use and contamination of the site and the existence of any encapsulated cells containing contaminated material; and
b) Binding the owners and future owners to be responsible for any on-going maintenance and any future rehabilitation works required in terms of the encapsulated materials, including the discharge or prevention of discharge therefrom of any contaminants or for any works required by the Environment Protection Authority.

Note: This condition has been imposed to ensure future owners (or perspective owners) are aware that the site contains under or within it encapsulated contaminated material and to ensure that they understand that they are liable for on-going maintenance and any future remediation as may be or become necessary.

F.10 Environmental Management Plan

An Environmental Management Plan (EMP) must be submitted to Council for approval, in accordance with the recommendations made in Site Audit Statement, reference MGH 116, prepared by Michael Hayter EPA Accreditation No.0001 of Environ Australia Pty Ltd and dated 25 July 2013, prior to the issue of any Occupation Certificate. Key aspects of the EMP should include:

a) The plan must be site specific and stand alone. It must contain only relevant information and be brief and simple and written for the intended users;
b) The plan must describe the nature and extent of the remnant contamination and the associated risks and the control measures to manage these risks;
c) Details on the location, extent and nature of the cap must be provided as well as details on what will be encountered if the cap is breached;
d) The plan must address prevention as well as management for breaches of the proposed cap;
e) A site plan indicating the capped area must be provided;
f) The EMP must provide a clear indication of those responsible for environmental management (especially who will implement the EMP); and
g) A clear system should be identified for ensuring that all people who work on the site are briefed on the presence of contaminated soil and can prepare a work method statement to be reviewed by an appropriate person where applicable.

The EMP must be reviewed by an EPA-accredited Site Auditor prior to submission to Council.

An appropriate public notification of the EMP is to be established under Section 149(2) of the Environmental Planning and Assessment Act, 1979, or a positive covenant registered on the title to land under Section 88B of the Conveyancing Act, 1919, as required in Condition F.8 of this development consent.

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

Not applicable.

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (Section 109C(1)(c))

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No. A193818.

Note: Clause 154B(2) of the Environmental Planning and 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

All landscape work including all planting must be completed by the principal contractor or owner in compliance with the approved landscape plan, arborist report, transplant method statement and tree management plan. The principal contractor or owner must provide to PCA a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works as completed comply with this consent.

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

Standard Condition: H9

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

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

I.1 Maintenance of BASIX commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No.A193818.

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: I24

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: I25

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: I26

I.4 Waste Management - Commercial

The owner and/or occupier of the commercial component of the premises must comply with the approved Site Waste Minimisation and Management Plan (SWMMP) and with Council’s Site Waste Minimisation and Management Development Control Plan 2010.
All waste must be presented for collection in a receptacle. Waste receptacles must be presented no earlier than the close of business on the day before collection. Waste and recycling bins/crates must be removed from the road or footpath within 1 hour of collection or otherwise is accordance with the approved SWMMP.

Receptacles are not to be stored in any public place at any time. Waste and recycling receptacles must be stored at all times within the boundaries of the site.

This condition does not apply to the extent that Activity Approval exists under the Local Government Act, 1993 or the Roads Act, 1993 and subject that all conditions of such approval(s) are complied with.

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 on-going operations of the development.

**Note:** No waste will be collected by Council that isn’t presented properly. The waste must be presented with lid closed to reduce littering.

**Standard Condition:** I32

### I.5 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 at: www.woollahra.nsw.gov.au.

**Standard Condition:** I35

### I.6 Removal of Graffiti

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

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

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

**Standard Condition:** I37

### I.7 Outdoor lighting – Residential

Residential outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminare 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 residential outdoor lighting in public places.

**Note:** This condition has been imposed to control the obtrusive effects of outdoor residential lighting

**Standard Condition:** I48
I.8 Outdoor lighting – Commercial

Commercial outdoor lighting must comply with AS 4282-1997: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminare 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 commercial outdoor lighting in public places.

**Note:** Council may consider, subject to an appropriate section 96 application relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.

Standard Condition: I50

I.9 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 owner and/or occupier of the residential components of the premises 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 on-going operations of the development.

**Note:** For further residential waste management policy information go to [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or contact Council’s Waste Education Officer.

Standard Condition: I52

I.10 Dry Recycling Systems and Services – Multi-unit residential developments

The development is to incorporate dry recycling systems and services consistent with the *Better Practice Guide for Waste Management in Multi-Unit Dwellings* (the Guide), prepared by the Department of Environment and Climate Change.


This condition is imposed to promote better practices in the design, establishment, operation and on-going management of waste services in residential multi-unit dwellings.

Standard Condition: I54
I.11 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.


Useful links:
Community Justice Centres—free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).
Standard Condition: IS6

I.12 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 LA_{90, 15 minute} level measured by a sound level meter.

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

Standard Condition: IS9

I.13 Ongoing (Long Term) Management of Remnant Contamination

The owner(s) of the site must comply with any on-going requirements contained within the Environmental Management Plan (EMP) referenced in Condition F.9 of this development consent.
J. Miscellaneous Conditions

Not applicable.

K. Advisings

K.1 Criminal Offences – Breach of Development Consent and 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.

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.
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 Development Control Plan 2004 and the Building Code of Australia 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 (“HREOC”):


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

Standard Advising: K3

K.4 Builders Licences and Owner Builders Permits

Section 81A of the Act requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an owner-builder, must 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):


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

Standard Condition: K5

K.5 Building Standards - Guide to Standards and Tolerances

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

The quality of any development is a function of the quality of the principal contractor’s or owner builder’s supervision of individual contractors and trades on a daily basis during the development. The PCA does not undertake this role.
The NSW Office of Fair Trading have published a “Guide to Standards and Tolerances©”, ISBN 0 7347 6010 8. The guide can be obtained from the Office of Fair Trading by calling 13 32 20 or by Fax: 9619 8618 or by post to: Marketing Branch, PO Box 972, Parramatta NSW 2124.

The Guide can be downloaded from:

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

Standard Condition: K6

K.6 Workcover requirements

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

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

Standard Condition: K7

K.7 Asbestos Removal, Repair or Disturbance

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

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

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

a) The Occupational Health and Safety Act, 2000;
b) The Occupational Health and Safety Regulation, 2001;

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.8 Lead Paint


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.

K.9 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/.

K.10 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr D Reynolds, Assessment Officer, on (02) 9391 7157.

However, if you wish to pursue your rights of appeal in the Land and 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.
K.11 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:

Standard Condition: K15

K.12 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.13 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.14 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
Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

<table>
<thead>
<tr>
<th>For the Motion</th>
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<tbody>
<tr>
<td>Councillor Bennett</td>
<td>Nil</td>
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<tr>
<td>Councillor Elsing</td>
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<td>Councillor Levenston</td>
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<td>Councillor Marano</td>
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<td>Councillor Zeltzer</td>
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D7  DA350/2014 - 42 Caledonia Street, Paddington – Alterations & additions including works to the existing cottage & a new two-storey pavilion structure to the rear with a single storey link – 26/8/2014

Note: Late correspondence was tabled by Chris Howe & Will Mrongovius of The Paddington Society.

(Elsing/Marano)

Resolved:

That the matter be referred to a Site Inspection Meeting to be held on Wednesday 18 February 2015.

D8  DA424/2014 – 42A Wolseley Road, Point Piper – Section 82A Review of Refusal of Application – 25/11/2014

Note: Late correspondence was tabled by Tim Browne.

Note: The application was formally withdrawn by the Applicant prior to the commencement of the meeting as such was not considered by the Development Control Committee.

D9  DA171/2010 part 3 – 10 Queens Avenue, Vaucluse – Section 96(8) Court Update – Proposed modification of Condition No. C.1(f) – 22/12/2014

(Elsing/Marano)

Resolved:

That Council receive and note the Land & Environment Court update report.
D10  DA387/2012 part 2 – 28 Bay Street, Double Bay – Section 96 Application – Proposed modification extension of the approved hours of footpath seating from 10am to 10pm (Monday to Sunday) to 10am to 11.45pm (Monday to Saturday) & 10am to 10.45pm (Sunday) for a 1 year trial period – 15/9/2014

Note:  Alex Oliver, an objector, addressed the Committee.

Motion moved by Councillor Elsing
That the matter be refused due to public concern regarding noise.

The Motion lapsed for want of a Seconder

Motion moved by Councillor Zeltzer
Seconded by Councillor Marano

That the matter be deferred

The Motion was put and carried
(Zeltzer/Marano)

Resolved:

THAT the Council, defer Development Application No. 387/2012 part 2 for the extension of the approved hours of footpath seating from 10am – 10pm, Monday to Sunday, to 10am – 11:45pm (Mon-Sat) and 10am – 10:45pm (Sun), on the land at 28 Bay Street, Double Bay to enable Council:

- To obtain a copy of the Hotel’s complaints log register
- To review Councils’ internal complaints records management system
- That Council staff prepare a further planning report addressing the above two bullet points
- To request the Applicant and Hotel operator attend the future DCC meeting when this matter is reconsidered

D11  DA78/2008 part 6 – 47 Chamberlain Avenue, Rose Bay – Proposed modifications to basement & entry levels, new side boundary wall (north-eastern side boundary), landscaping modifications – 6/5/2014

(Elsing/Levenston)

THAT the Committee resolve to enter into closed session with the press and public excluded to consider the confidential report and legal advice on this matter in accordance with the provisions of Section 10A(2)(g) of the Local Government Act 1993.

Adopted  In Closed Session

Note:  The Committee discussed the confidential report and legal advice and drafted a resolution.
That the Committee move into “Open Session”.

Adopted

In Open Session

Resolved:

A. THAT in accordance with Council’s policy on confidentiality, the confidential report remain confidential for a period of 6 months or until the completion of the appeal, whichever occurs last.

B. THAT the Council seek to resolve the Land and Environment Court Proceedings by way of Section 34AA agreement, granting delegation and relying upon the expertise of external planning consultant Kerry Nash, and Council’s lawyers as detailed in this report. It is further recommended that if Mr Nash can negotiate, in good faith, an appropriate outcome via the conciliation conference, that Council enter into an agreement under Section 34(3)(a) of the Land and Environment Court Act, 1979 granting consent to DA78/2008/6 for modifications to basement and entry levels; new side boundary wall (north-eastern side boundary); landscaping modifications on the land at 47 Chamberlain Avenue, Rose Bay.

C. IF that matter is not resolved at the conciliation conference, Council consent under s34(4)(b) to the Commissioner disposing of the proceeding by hearing.

D. THAT the Council seek to commence Class 5 proceedings in the Land & Environment Court.

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

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D12 Register of Current Land and Environment Court Matters and Register of Court Proceedings for Building Control, Environmental Control & Health Control

Resolved:

A. THAT the attached register of current Land and Environment Court Matters for Development Applications be received and noted.
B. THAT the attached register of Court Proceedings for Building Control, Environmental Control and Health Control be received and noted.

D13 Register of SEPP 1 Objections

(Levenston/Elsing)

Resolved:

THAT the attached register of SEPP 1 Objections be received and noted.

Items with Recommendations from this Committee Submitted to the Council for Decision (Item R1)

R1 DA528/2012 part 2 – 550 New South Head Road, Rose Bay (Lyne Park) – Section 96 Application – Proposed modification new outdoor seating area & new bin enclosure to the café – 28/11/2014

Note: Late correspondence was tabled by Joanna Barlow.

(Elsing/Levenston)

Recommendation: Pursuant to Section 96 of the Environmental Planning and Assessment Act, 1979

THAT the Council, as the consent authority, modify development consent to Development Application No. 528/2012 part 2 for the partial demolition of amenities block, construction of new toilets, cafe and covered deck on land at 550 New South Head Road Rose Bay, in the following manner:

The addition of the following condition:

A.6 Approved Amended (s96) Plans and supporting documents

Those acting upon or under this amended consent must carry out all work and maintain the use and works in accordance with the approved plans and supporting documents listed in the original consent, as amended by the amended approved plans and supporting documents as submitted by the Applicant and to which is affixed a Council stamp “Approved Section 96 Plans” listed below otherwise than modified by further condition(s). Where the plans relate to amendments, alterations or additions only those works shown in colour or highlighted are approved.

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<th>Reference</th>
<th>Description</th>
<th>Author/Drawn</th>
<th>Date(s)</th>
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<tr>
<td>DA01_A</td>
<td>Architectural Plans</td>
<td>MaCcormick and Associates</td>
<td>28/11/2014</td>
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</table>
Note: These plans and supporting documentation may be subject to conditions modifying the development imposed under section 80A(1)(g) of the Act (refer to conditions which must be satisfied prior to the issue of any Construction Certificate.)

Standard Condition: A6

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

This approval does not give consent to the proposed new bin enclosure (adjacent to the male bathrooms).

The modification of the following conditions:

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:

c) Any signage for the café should be kept to a minimum. Product advertising that is not attached to the facility is not permitted. Where product advertising is attached to the facility, it should be ancillary to the facility and not overshadow facility signage.

d) All electric wiring and power outlets must be located above 2.6m AHD.

e) Only flood compatible materials must be used (as defined in the NSW).

f) The proposed new bin enclosure (adjacent to the male bathrooms) must be deleted.

g) The size and location of the drinks fridge and ice cream freezer must allow for a 1200mm wide access path through the site.

h) The outdoor benches, umbrellas, drinks fridge and ice cream freezer must be portable (i.e. not fixed permanent structures).

i) The openable doors to the existing bin area (adjacent to the café kitchen) may be replaced with a white colorbond steel roller shutter. The installation of the roller shutter must not result in any increase to the size of the existing bin area.

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

F.8 Deed of Variation of Lease

The lessee must enter into a Deed of Variation of Lease with Woollahra Council documenting Council’s terms and conditions relating to the outdoor seating area (with an area of 7.5m x 4m), drinks fridge and ice cream freezer.

The increase in area occupied is to be assessed by an independent rental valuation, and any increase in the Lease rent will form a Variation of the Lease terms and conditions. The Applicant must pay all Council’s incurred costs, including but not limited to legal, valuation, and survey costs.
I.9 Maintenance of the Outdoor Seating Area

All works associated with the outdoor seating area, including but not limited to synthetic lawn, low planting, benches and umbrellas are the responsibly of the café. All maintenance is to be undertaken by the café. If this area is maintained to an acceptable standard, Council will order their immediate removal.

I.10 Storage of outdoor seating

The outdoor benches, umbrellas, drinks fridge and ice cream freezer must be portable and must be removed from the outdoor seating area at close of business, and stored within the lockable areas of the Lyne Park Café.

I.11 Outdoor Seating - Footpath Seating

1. The outdoor dining tables are not to be set with cutlery or crockery until such time as the table is occupied;
2. The outdoor dining area must be regularly cleaned during all hours of operation for both hygiene and presenting a continuous well cared for image;
3. Tables and chairs shall be cleaned and sanitised after each customer and regularly throughout operating hours due to additional exposure to various weather conditions, pets, wildlife and vermin;
4. The footpath shall be kept clean and free of rubbish and debris at all times;
5. All spills occurring due to service or by patrons shall be cleaned immediately;
6. Staff are to monitor behaviour of patrons using the outdoor dining facilities and take action when required to ensure that no nuisance arises from the use of the footpath seating area.

K.12 Waste Reduction

The cafe should liaise with Council to assess trade waste and obtain advice on reducing the amount of waste produced. It is recommended that the trade waste is collected more frequently.

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

For the Recommendation Against the Recommendation

Councillor Bennett Nil
Councillor Elsing
Councillor Levenston
Councillor Marano
Councillor Zeltzer

5/0
There being no further business the meeting concluded at 8.55pm.

We certify that the pages numbered 196 to 376 inclusive are the Minutes of the Development Control Committee Meeting held on 16 February 2015 and confirmed by the Development Control Committee on 2 March 2015 as correct.

________________________________________  _______________________________________
Chairperson                                      Secretary of Committee