Minutes: Development Control Committee

Date: Monday 15 June 2015

Time: 6.00pm
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Development Control Committee

Minutes of the Meeting held on
15 June 2015 at 6.00pm.

Present: Councillors: Ted Bennett (Chair)
Luise Elsing (Items D1 & D6 to D8 & R1 & R2)
James Keulemans
Greg Levenston
Anthony Marano

Staff:
Allan Coker (Director – Planning & Development)
Nick Economou (Acting Manager – Development Control)
George Fotis (Team Leader)
Eleanor Smith (Team Leader)
Sue O’Connor (Secretarial Support – Governance)
Sarah Richards (Senior Assessment Officer)
David Waghorn (Team Leader)
Rod Ward (Project Manager – Open Space)

Session One: 6.00pm to 7.35pm
Session Two: 8.05pm to 9.10pm

Also in Attendance: Nil

Note: Item D6 (8 Queens Avenue Vaucluse) was brought forward and heard after D1 (Confirmation of Minutes) in the 1st Session.

Item D8 (Register of Current Land and Environment Court Matters and Register for Court Proceedings) was heard last in the Second Session.
Leave of Absence and Apologies

Apologies were received and accepted from Councillors Katherine O’Regan & Toni Zeltzer and leave of absence granted.

Late Correspondence

Late correspondence was submitted to the Committee in relation to items D2, D6 & R1

Declarations of Interest

Councillor Elsing declared a Non-Significant, Non-Pecuniary Interest in Item D2 (6-8 Cranbrook Road, Bellevue Hill), as she is a member of the Joint Regional Planning Panel and will be dealing with the matter at the JRPP. Councillor Elsing vacated meeting and did not participate in the debate or vote on the matter.

Councillor Keulemans declared a Non-Significant Non-Pecuniary Interest in Item D2 (6-8 Cranbrook Road, Bellevue Hill) as Anthony Boskovitz, an objector to this matter was a former Liberal Party Councillor. Councillor Keulemans does not believe it would affect his vote.

Councillor Marano declared a Non-Significant Non-Pecuniary Interest in Item D2 (6-8 Cranbrook Road, Bellevue Hill) as Anthony Boskovitz, an objector to this matter was a former Liberal Party Councillor. Councillor Marano does not believe it would affect his vote.

Councillor Levenston declared a Non-Significant Non-Pecuniary Interest in Item D2 (6-8 Cranbrook Road, Bellevue Hill) as Anthony Boskovitz, an objector to this matter was a former Liberal Party Councillor. Councillor Levenston does not believe it would affect his vote.

Councillor Bennett declared a Non-Significant Non-Pecuniary Interest in Item D2 (6-8 Cranbrook Road, Bellevue Hill) as Anthony Boskovitz, an objector to this matter was a former Liberal Party Councillor. Councillor Bennett does not believe it would affect his vote.

Councillor Keulemans declared a Non-Significant Non-Pecuniary Interest in Item R1 (15 Old South Head Road, Vaucluse (Christison Park)) as Anthony Boskovitz, an objector to this matter was a former Liberal Party Councillor. Councillor Keulemans does not believe it would affect his vote.

Councillor Marano declared a Non-Significant Non-Pecuniary Interest in Item R1 (15 Old South Head Road, Vaucluse (Christison Park)) as Anthony Boskovitz, an objector to this matter was a former Liberal Party Councillor. Councillor Marano does not believe it would affect his vote.

Councillor Levenston declared a Non-Significant Non-Pecuniary Interest in Item R1 (15 Old South Head Road, Vaucluse (Christison Park)) as Anthony Boskovitz, an objector to this matter was a former Liberal Party Councillor. Councillor Levenston does not believe it would affect his vote.

Councillor Bennett declared a Non-Significant Non-Pecuniary Interest in Item R1 (15 Old South Head Road, Vaucluse (Christison Park)) as Anthony Boskovitz, an objector to this matter was a former Liberal Party Councillor. Councillor Bennett does not believe it would affect his vote.
Items to be Decided by this Committee using its Delegated Authority

Item No: D1
Subject: CONFIRMATION OF MINUTES OF MEETING HELD ON 1 JUNE 2015
Author: Sue O'Connor, Secretarial Support - Governance
File No: 15/75248
Reason for Report: The Minutes of the Development Control Committee of 1 June 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.

(Levenston/Keulemans)

Resolved:

THAT the Minutes of the Development Control Committee Meeting of 1 June 2015 be taken as read and confirmed.

ITEM No. D2
FILE No. DA 517/2014/1
PROPERTY DETAILS 6-8 Cranbrook Road, Bellevue Hill (Drayton House) and Cranbrook Road reserve
PROPOSAL: Demolition of the existing buildings and removal of trees and the construction of a part three part four storey aged care facility comprising 59 rooms (63 beds) including a roof garden and basement level car parking and storage; new landscaping, fences and siteworks

Note: In accordance with Council’s meeting procedures and policy this matter is referred to full Council to allow Council to make a submission to the JRPP. (See Item R3)
ITEM No.  D3
FILE No.  DA 464/2014/1
ADDRESS  106 Glenmore Road PADDINGTON
PROPOSAL  New residential infill development consisting of extensive alterations & additions retaining certain existing walls and slabs

Note: The Owner addressed the Committee.

(Marano/Keulemans)

Resolved:

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 will achieve the objectives of the height development standard.

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. 464/2014/1 for a new residential infill development consisting of extensive alterations and additions retaining certain existing walls and slabs on land at 106 Glenmore Road Paddington, subject to the following conditions:

A. General Conditions

A.1 Conditions

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

Standard Condition: A1

A.2 Definitions

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

Applicant means the applicant for this Consent.

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

AS or AS/NZS means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.
BCA means the Building Code of Australia as published by the Australian Building Codes Board as in force at the date of issue of any Construction Certificate.

Council means Woollahra Municipal Council

Court means the Land and Environment Court

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

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

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<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Author/Drawn</th>
<th>Date(s)</th>
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<tr>
<td>DA-06 [Rev F]</td>
<td>Lower Ground, Ground and First Floor Plans</td>
<td>Nassima Design Group</td>
<td>29 Apr 2015</td>
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<tr>
<td>DA-08 [Rev E]</td>
<td>Site Plan, Fence Elevation and Section CC</td>
<td>Nassima Design Group</td>
<td>1 Mar 2015</td>
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<tr>
<td>DA-13</td>
<td>Landscape Plan</td>
<td>Nassima Design Group</td>
<td>2 Mar 2015</td>
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<tr>
<td>Rev D</td>
<td>Materials and Colours Schedule</td>
<td>Nassima Design Group</td>
<td>29 Apr 2015</td>
</tr>
<tr>
<td>689-S1/1 [Rev B]</td>
<td>Stormwater Drainage &amp; Sediment Control Plan</td>
<td>TAA Consulting Engineers</td>
<td>1 Mar 2015</td>
</tr>
<tr>
<td>A204028_02</td>
<td>BASIX Certificate</td>
<td>NSW Department of Planning and Infrastructure</td>
<td>2 Mar 2015</td>
</tr>
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Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped
approved plans. You should not rely solely upon the plan reference numbers in this condition. Should
the applicant not be able to provide you with the original copy Council will provide you with access to its
files so you may review our original copy of the approved plan.

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

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

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

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

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

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 proposed windows to the first floor level western elevation

The sill of the new windows to the western elevation of the first floor shall sit a minimum of 1.5m above the finished floor level.

This condition has been imposed to ensure that there are no direct sightlines into the two existing first floor windows of 96-104 Glenmore Road Paddington in accordance with Objective O2 of Part 4.1.10 of the Paddington Heritage Conservation Area Development Control Plan 2008.

b) The proposed rear pedestrian gate

The new rear pedestrian gate shall not encroach over or onto public land when opening and closing.

This condition has been imposed to ensure compliance with Control C2 of Part 4.2.5 of the Paddington Heritage Conservation Area Development Control Plan 2008.

c) The existing timber lattice screen to rear fence

The existing timber lattice screen above the solid rear boundary fence shall be removed.

This condition has been imposed to ensure the proposal accords with Objective O4 of Part 4.2.5 of the Paddington Heritage Conservation Area Development Control Plan 2008.

d) The existing vehicular crossing to Glenmore Road

The existing vehicular crossing to Glenmore Road shall be removed and a kerb, gutter and verge be reinstated.

This condition has been imposed to ensure the proposal accords with Objective O2 of Part 4.2.6 of the Paddington Heritage Conservation Area Development Control Plan 2008.
e) **Establishment of a soft landscaping zone in the street front zone**

A soft landscaping zone shall be established in the street front zone of the site, with landscape elements consistent with the character of the heritage conservation area.

This condition has been imposed to ensure the proposal accords with Objective O2 of Part 4.2.11 of the Paddington Heritage Conservation Area Development Control Plan 2008.

g) **Installation of timber framed painted screens**

Timber framed painted screens shall be installed to the full width and height of the two outside panes of window number BX-3 located on ground floor of the southern (front) elevation.

This condition has been imposed to ensure the proposal accords with Objectives O1 and O2 and Controls C4 and C14 of Part 4.4 of the Paddington Heritage Conservation Area Development Control Plan 2008.

h) **The material of the sliding privacy screens**

The proposed sliding privacy screens to window number BX-2 located on the first floor southern (front) elevation shall be timber.

This condition has been imposed to ensure that the proposal accords with the Objective O1 and Control C12 of Part 4.4 of the Paddington Heritage Conservation Area Development Control Plan 2008.

**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>
</table>
| LONG SERVICE LEVY  
under Building and Construction Industry Long Service Payments Act 1986 | Long Service Levy  
| SECURITY  
under section 80A(6) of the Environment Planning and Assessment Act 1979 | Property Damage Security Deposit - making good any damage caused to any property of the Council | $24,906 | No | T115 |
| DEVELOPMENT LEVY  
under Woollahra Section 94A Development Contributions Plan 2011  
This plan may be inspected at Woollahra Council or downloaded at [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au). | Development Levy (Section 94A)  
$10,250  
+ 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 | $35,759 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.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.3 BASIX Commitments

The applicant must submit to the Certifying Authority BASIX Certificate No. A204028_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 Road and Public Domain Works – Council approval required

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) Removal of all driveway crossings and kerb laybacks which will be no longer required.

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

The Construction Certificate plans and specifications required by clause 139 of the Regulation is to be generally in accordance with the Stormwater Disposal Concept Plan reference 689-S1/1 Rev A dated 31.10.14 prepared by TAA Consulting Engineers and 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

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 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.3 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.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.

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

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

Standard Condition: D11

D.5 Site Signs

The Principal Contractor or owner builder must ensure that the sign/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 Toilet Facilities

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

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

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

In this condition:

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

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

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

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

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

**Standard Condition: D13**

**D.7 Erosion and Sediment Controls – Installation**

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

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

Where there is any conflict The Blue Book takes precedence.

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

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

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

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

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

**Standard Condition: D14**
D.8 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)

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

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

b) The person having the benefit of the development consent has:
   - 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.

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 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.


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:
  - 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.”

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: E7

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.

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”.

THE DRAIN IS JUST FOR RAIN
**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](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.16 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.17 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.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).

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.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 this consent and so that a public record of works as executed 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.

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. A204028_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

H.3 Road Works (including footpaths)

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

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

g) New or replacement street trees;

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

i) New or reinstated kerb and guttering within the road; and

j) New or reinstated road surface pavement within the road.

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

Standard Condition: H13

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. A204028_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 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.

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):

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

Standard Condition: K5

K.4 Building Standards - Guide to Standards and Tolerances

The PCA does not undertake detailed quality control inspections and the role of the PCA is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia. Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the “Guide to Standards and Tolerances©” ISBN 0 7347 6010 8 are achieved.
The quality of any development is a function of the quality of the principal contractor’s or owner builder’s supervision of individual contractors and trades on a daily basis during the development. The PCA does not undertake this role.

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

The Guide can be 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.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 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.

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

K.12 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 Keulemans  
Councillor Levenston  
Councillor Marano

**Against the Motion**  
Nil

4/0
ITEM No.  D4
FILE No.  DA 537/2014/1
ADDRESS  2/32 Darling Point Road DARLING POINT
PROPOSAL  Alterations to unit 2

Note: James Weir, Architect/Applicant & Julia Ashworth, Owner, addressed the Committee.

(Keulemans/Levenston)

Resolved:

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 maximum floor space ratio development standard set by Clause 11 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 the 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. 537/2014/1 for alterations to interior of unit 2 on land at 2/32 Darling Point Road Darling Point, subject to the following conditions:

A. General Conditions

A.1 Relationship to Development Application No 538/2014

The works under DA537/2014 and DA538/2014 are to be carried out concurrently, to ensure the development, as constructed, will be consistent with this application.

A.2 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.3 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.4 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>
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<tbody>
<tr>
<td>DA02 – A project AAD – I</td>
<td>DA02 Proposed Ground Floor Plan</td>
<td>Weir Phillips Architects</td>
<td>15 Apr 2015</td>
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<tr>
<td>DA05 – A project AAD – I</td>
<td>DA05 Interior Section A</td>
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<tr>
<td>DA06 – A project AAD – I</td>
<td>DA06 Interior Section B Proposed Ground Floor Plan</td>
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<td>BASIX Certificate No. A216530</td>
<td>BASIX Certificate</td>
<td>NSW Department of Planning and Infrastructure</td>
<td>15 Apr 2015</td>
</tr>
<tr>
<td>-</td>
<td>Site Waste Minimisation and Management Plan</td>
<td>Weir Phillips Architects</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

A.5 Development Consent is not granted to the air conditioning unit located to the North East Elevation verandah.

This approval does not give consent to the air conditioning unit located to the North East Elevation verandah. A separate Development Consent or Complying Development Certificate and Part 4A Certificates, as appropriate, will need to be obtained prior to such development work approval.

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 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 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) Ground Floor level North-East Elevation Bedroom 2 new sliding verandah access door unit.

In order to conserve the environmental heritage of the area of Woollahra in accordance with Clause 2(1)(g) of the Woollahra LEP 1995 and objective O 4.1.13 and control C 4.1.7 of Section 4.1 Darling Point Precinct Controls of the Woollahra Residential Development Control Plan 2003:

i. The ground floor level North-East Elevation Bedroom 2 new sliding verandah access door unit shall have timber frames, stiles, rails and trims, and

ii. Shall have a paint finish to match the existing external paint colour scheme.
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></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>under Building and Construction Industry Long Service Payments Act 1986</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property Damage Security Deposit</td>
<td>$5,343.00</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>under section 80A(6) of the Environmental Planning and Assessment Act 1979</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>SECURITY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development Levy (Section 94A)</td>
<td>$750.00</td>
<td>Yes, quarterly</td>
<td></td>
</tr>
<tr>
<td>under Woollahra Section 94A Development Contributions Plan 2011</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>INSPECTION FEES</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Security Administration Fee</td>
<td>$185</td>
<td>No</td>
<td></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>$6,278.00 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. A216530 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 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) To maintain the external fabric of the building spandrel separation shall be provided under an alternative solution by an accredited C10 fire engineer meeting performance requirements CP2, CP4 and CP8 of the BCA.

b) That the sole occupancy unit shall be separated in fire resisting construction from the remainder of the building. The original floor/ceilings shall be maintained and an alternative solution shall be proposed for the fire separation by an accredited C10 fire engineer meeting performance requirements CP1, CP2, CP4, CP8 and EP2.2 of the BCA.

c) That smoke alarms shall be provided throughout the sole occupancy unit in accordance with the requirements Specification E2.2a Clause 3 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 condition 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 AS) should form the basis of any fire upgrade report.

Standard Condition: C10

C.5 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.6 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/oheadprostruc.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:

\textit{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 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.6 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.7 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.

E.2 Compliance with Australian Standard for Demolition


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.

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 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.9 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.10 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.11 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.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 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.

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
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.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

Standard Condition: E32

**E.17 Asbestos Removal**

Where hazardous material, including bonded or friable asbestos has been identified 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.18 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 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.19 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified 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 hazardous waste is disposed of lawfully under the Protection of the Environment Operations Act 1997 and relevant EPA requirements.
Standard Condition: E41

E.20 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.21 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 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.

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. A216530.

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. A216530.

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 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)

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

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

Standard Condition: I22

I.3 Noise from mechanical plant and equipment

The noise level measured at any boundary of the site (Unit 12AB/21 Thornton Street Darling Point) 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

Standard Condition: I53

J. Miscellaneous Conditions

Nil.

K. Advisings

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

Failure to comply with this development consent and any condition of this consent is a criminal offence. Failure to comply with other environmental laws is also a criminal offence.
Where there is any breach Council may without any further warning:

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

Warnings as to potential maximum penalties

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

Warning as to enforcement and legal costs

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

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

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

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):

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.

**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.

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.

K.8 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.
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.


Standard Condition: K15

K.10 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.11 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.12 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
ITEM No. D5
FILE No. DA 538/2014/1
ADDRESS 32 Darling Point Road DARLING POINT
PROPOSAL Alterations to exterior glazing of units 2 & 3

Note: James Weir, Architect/Applicant & Julia Ashworth, Owner, addressed the Committee.

(Levenston/Keulemans)

Resolved:

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 maximum floor space ratio development standard set by Clause 11 of Woollahra LEP 1995 and Height of buildings development standard set by Clause 12 of Woollahra LEP 1995 are is well founded. The Council is also of the opinion that strict compliance with the development standards is unreasonable and unnecessary in the circumstances of the case.

AND

THAT the Council, as the consent authority, being satisfied that the objections under SEPP No. 1 are well founded and also being of the opinion that it is consistent with the aims of the Policy, grant development consent to Development Application No. 538/2014/1 for alterations to exterior glazing of units 2 & 3 on land at 32 Darling Point Road Darling Point, subject to the following conditions:

A. General Conditions

A.1 Relationship to Development Application No 537/2014

The works under DA537/2014 and DA538/2014 are to be carried out concurrently, to ensure the development, as constructed, will be consistent with this application.
A.2 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.3 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.4 **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>DA02 – A project AAD – E</td>
<td>Proposed Ground Floor Plan</td>
<td>Weir Phillips Architects</td>
<td>15 Apr 2015</td>
</tr>
<tr>
<td>DA03 – A project AAD - E</td>
<td>Proposed North West Elevation</td>
<td></td>
<td></td>
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<tr>
<td>DA04 – A project AAD - E</td>
<td>Proposed North East Elevation</td>
<td></td>
<td></td>
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<tr>
<td>BASIX Certificate No. A216530</td>
<td>BASIX Certificate</td>
<td>NSW Department of Planning and Infrastructure</td>
<td>15 Apr 2015</td>
</tr>
<tr>
<td></td>
<td>Site Waste Minimisation and Management Plan</td>
<td>Weir Phillips Architects</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 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) Retention and conservation of the existing round picket vertical timber panel balustrading and any existing top-rails to the ground floor level verandah.

In order to conserve the environmental heritage of the area of Woollahra in accordance with Clause 2(1)(g) of the Woollahra LEP 1995 and objective O 4.1.13 and control C 4.1.7 of Section 4.1 Darling Point Precinct Controls of the Woollahra Residential Development Control Plan 2003 and to ensure that the proposed works do not involve unnecessary removal of highly significant fabric:
i. The existing round picket vertical timber panel balustrading and any existing top-rails located below window openings W01, W02, W03 and W04 to the North-West and North East elevation ground floor level verandah Dining and Sunrooms shall be retained and conserved.

ii. All new balustrading located below window openings W05 and W06 to the North-West elevation ground floor level verandah Sunroom shall match the height, proportions, materiality and finished appearance of the existing round picket vertical timber panel balustrading and any existing top-rails located below window openings W01, W02, W03 and W04.

b) All new window openings shall have a paint finish to match the existing external paint colour scheme of the building.

In order to conserve the environmental heritage of the area of Woollahra in accordance with Clause 2(1)(g) of the Woollahra LEP 1995 and objective O 4.1.13 and control C 4.1.7 of Section 4.1 Darling Point Precinct Controls of the Woollahra Residential Development Control Plan 2003 and to ensure that the finished appearance of new windows are consistent with the architectural character of the existing building:

i. All new window openings shall have a paint finish to match the existing external paint colour scheme of the building.

c) New adjustable canvas blinds to the North-West and North East elevation ground floor level verandahs.

In order to conserve the environmental heritage of the area of Woollahra in accordance with Clause 2(1)(g) of the Woollahra LEP 1995 and objective O 4.1.13 and control C 4.1.7 of Section 4.1 Darling Point Precinct Controls of the Woollahra Residential Development Control Plan 2003:

i. All new adjustable canvas blinds to the North-West and North East elevation ground floor level verandahs shall match exactly the material detailing of the existing North-West and North East elevation first floor level adjustable canvas blinds.

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

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

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

Standard Condition: C4

C.2 Payment of Long Service Levy, Security, Contributions and Fees

The certifying authority must not issue any Part 4A Certificate until provided with the original receipt(s) for the payment of all of the following levy, security, contributions, and fees prior to the issue of a construction certificate, subdivision certificate or occupation certificate, as will apply.
### Description

<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>Contact LSL Corporation or use online calculator</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Property Damage Security Deposit - making good any damage caused to any property of the Council</td>
<td>$5343.00</td>
<td>No</td>
<td>T115</td>
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<tr>
<td><strong>DEVELOPMENT LEVY</strong> under Woollahra Section 94A Development Contributions Plan 2011</td>
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<td></td>
<td></td>
</tr>
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<td>Development Levy (Section 94A)</td>
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<td>Yes, quarterly</td>
<td>T96</td>
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<tr>
<td><strong>INSPECTION FEES</strong> under Section 608 of the Local Government Act 1993</td>
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<td></td>
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<tr>
<td>Security Administration Fee</td>
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<td>No</td>
<td>T16</td>
</tr>
<tr>
<td><strong>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</strong></td>
<td>$6303.00 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.3 BASIX commitments

The applicant must submit to the Certifying Authority BASIX Certificate No. A216530 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 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:

- That the existing external fabric of the building shall remain and an alternative solution shall be proposed to provide spandrel separation to the sole occupancy units by an accredited C10 fire engineer meeting performance requirements CP2, CP4 and CP8 of the BCA. The alternate solutions for the external fabric spandrel separation between sole occupancy units shall be approved to Woollahra Municipal’s Council’s Heritage Officer prior to any construction works commencing.

**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 AS) should form the basis of any fire upgrade report.

Standard Condition: C10

C.5 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.6 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.

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:


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 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**: 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 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.7 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 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.9 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.10 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.11 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.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 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 down loaded free of charge from Council’s web site www.woollahra.nsw.gov.au or obtained from Council’s office.

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

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

Standard Condition: E23

E.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

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.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

Standard Condition: E32
E.17 Asbestos Removal

Where hazardous material, including bonded or friable asbestos has been identified 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

E.18 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.

E.19 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified 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.

E.20 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.

E.21 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.
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 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

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. A216530.
**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 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)

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

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

**Standard Condition: I22**

#### I.2 Maintenance of BASIX commitments

All BASIX commitments must be maintained in accordance with the *BASIX Certificate* No. A216530.

**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:

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 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.4 Building Standards - Guide to Standards and Tolerances

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

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

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

The Guide can be down loaded from:

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

Standard Condition: K6

K.5 Workcover requirements

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

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

Standard Condition: K7

K.6 Asbestos Removal, Repair or Disturbance

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

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

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

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.

K.8 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.
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.

Standard Condition: K15

K.10 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.11 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.12 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
ITEM No. D6
FILE No. DA 514/2011/3
ADDRESS 8 Queens Avenue Vaucluse
PROPOSED MODIFICATION Extend both the ground floor rear terrace and the roof to the terrace which adjoins the family room and enlarge the first floor level

Note: Late correspondence was tabled by Dr Wayne Burt & Karl Iva & Tania Mayer.

(Keulemans/Levenston)

Resolved:

THAT the Council defer consideration of the application to modify development consent to Development Application No. 514/2011/1 for the demolition of the existing dwelling-house (retention of some existing building fabric) and carport; substantial alterations and additions including a new first floor level (new dwelling-house) on land at 8 Queens Avenue Vaucluse, to the Development Control Committee of 20 July 2015, at the Applicant’s request.

ITEM No. D7
FILE No. DA 78/2015/1
ADDRESS 288 Oxford Street PADDINGTON
PROPOSAL Alterations & additions to the existing two storey mixed use terrace including a new shopfront and new access & staircase to residential dwelling

(Keulemans/Levenston)

Resolved:

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 1:1 floor space ratio development standard specified by Clause 11 and the 9.5m height of buildings development standard specified by Clause 12 of Woollahra LEP 1995 is well founded.
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. 78/2015/1 for alterations and additions to existing two storey mixed use terrace including new shopfront, new access and staircase to residential dwelling on land at 288 Oxford Street Paddington, subject to the following conditions:

A. General Conditions

A.1 Conditions

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

Standard Condition: A1

A.2 Definitions

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

Applicant means the applicant for this Consent.

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

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

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

Council means Woollahra Municipal Council

Court means the Land and Environment Court

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

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

- 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.
### Reference Table

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Author/Drawn</th>
<th>Date(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>955/02A</td>
<td>Site and roof plans</td>
<td>Gutnik Design Group</td>
<td>24 Apr 2015</td>
</tr>
<tr>
<td>955/05A</td>
<td>Ground, first and attic level plans</td>
<td></td>
<td>24 Apr 2015</td>
</tr>
<tr>
<td>955/06</td>
<td>Front elevation</td>
<td></td>
<td>Feb 2015</td>
</tr>
<tr>
<td>955/07A</td>
<td>Rear elevation</td>
<td></td>
<td>24 Apr 2015</td>
</tr>
<tr>
<td>955/08A</td>
<td>Section A-A</td>
<td></td>
<td>24 Apr 2015</td>
</tr>
<tr>
<td>pg 10</td>
<td>Waste management measures and sediment control measures</td>
<td>Gutnik Design Group</td>
<td>Feb 2015</td>
</tr>
<tr>
<td></td>
<td>pg 10 extracted from the Statement of Environmental Effects.</td>
<td></td>
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</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.)

### 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.

#### 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></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Long Service Levy</td>
<td></td>
<td></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 Environmental Planning and Assessment Act 1979</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Property Damage Security Deposit -making good any damage caused to any property of the Council</td>
<td>$4371.00</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>Development Levy (Section 94A)</td>
<td>$525.00</td>
<td>Yes, quarterly</td>
<td>T96</td>
</tr>
<tr>
<td>+ Index Amount</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>INSPECTION FEES</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Under Section 608 of the Local Government Act 1993</td>
<td>$185</td>
<td>No</td>
<td>T16</td>
</tr>
<tr>
<td><strong>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</strong></td>
<td>$5081.00 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 Waste Storage – Commercial and residential

The Construction Certificate plans and specifications required by clause 139 of the Regulation, must make provision for a dedicated and enclosed waste and recycling storage area to the rear or within non-habitable areas of the building.

C.3 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 shop shall be separated in fire resisting construction from the entrance to the residential portion of the building in accordance with the requirements of clause C2.8 of the BCA.

b) That the shop shall be separated in fire resisting construction from the residence above in accordance with the requirements of Clause C2.9 of the BCA.

c) That handrail’s shall comply with the requirements of Clause D2.17 of the BCA.

d) That a smoke detection system shall be installed throughout the building in accordance with the requirements of Specification E2.2a of the BCA.

e) That the dimensions of the exits and paths of travel to the exits shall comply with the requirements of Clause D1.6 of the BCA.

f) That a system of emergency lighting shall be installed throughout the building to provide sufficient light in an emergency in accordance with the requirements of Part E4 of the BCA.

g) That exit signs shall be installed above all required exit doors. Signs shall be illuminated at all times and generally be of sufficient number that direction of travel to all exits is clearly visible from any part of the major egress routes. Exit signs shall be installed to the standard expressed in Clauses E4.5, E4.6 and E4.8 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 AS) should form the basis of any fire upgrade report.

**Standard Condition: C10**

### 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 Light & Ventilation

The Construction Certificate plans and specifications, required to be submitted to the
Certifying Authority pursuant to clause 139 of the Regulation, must detail all a lighting,
mechanical ventilation or air-conditioning systems complying with Part F.4 of the BCA or
clause 3.8.4 and 3.8.5 of the BCA Housing Provisions, inclusive of AS 1668.1, AS 1668.2 and
AS/NZS 3666.1. If an alternate solution is proposed then the Construction Certificate
application must include a statement as to how the performance requirements of the BCA are
to be complied with and support the performance based solution by expert evidence of
suitability. This condition does not set aside the mandatory requirements of the Public Health
(Microbial Control) Regulation2000 in relation to regulated systems. This condition does not
set aside the effect of the Protection of the Environment Operations Act 1997 in relation to
offensive noise or odour.

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

Standard Condition C39

### C.7 Noise Control - Acoustic Protection of adjoining residential units-Operation of Air
Conditioning Plant

The applicant must ensure that the operation of any proposed Air Conditioning System(s) and
associated plant does not create interior noise intrusion and vibration to occur within any
adjoining residential unit.

### C.8 Ventilation - Internal Sanitary Rooms

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 & 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,
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/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.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 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.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.

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 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.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

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 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.9 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.10 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.11 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.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.

E.13 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.

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](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.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
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.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

ej) 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.17 Asbestos Removal

Where hazardous material, including bonded or friable asbestos has been identified 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.18 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.19 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified 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.20 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.21 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 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

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 **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 **Trading hours**

Trading hours are limited to:

a) Monday 9.00am – 5.30pm
b) Tuesday Closed
c) Wednesday 11.00am – 10.00pm
d) Thursday 11.00am – 10.00pm
e) Friday 11.00am – 10.00pm
f) Saturday 9.00am – 10.00pm
g) Sunday 9.00am – 5.30pm

This condition has been imposed to mitigate amenity impacts upon the neighbourhood by commercial or retail trading including, but not limited to, external impacts associated with clients attending the site for business or otherwise.
Note: This condition does not apply to deliveries to, or dispatches from, the site of wholesale goods or internal activities that occur under the approved hours of use. General use and deliveries or dispatches may be restricted by hours of use conditions. This condition does not restrict the operation of noise pollution laws.

Standard Condition: I2

I.2 Maximum Patron Capacity

The total number of patrons on the premises at any time shall not exceed 52 patrons.

Any person/s attending the premises for the purpose of ‘takeaway’ products/services will not be considered a ‘patron’ as detailed above, provided no food and or drink is consumed by those persons on the premises.

Standard Condition: I6

I.3 Signage to be Displayed – Licensed Premises

Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected in a prominent position near the principal entry to the premises in accordance with Clause 98D of the EPA Regulation 2000.

The signage shall state the following and may change from time to time due to reviewable conditions in accordance with Condition I.1:

“Approved trading hours are limited to:

a) Monday 9.00am – 5.30pm
b) Tuesday Closed
c) Wednesday 11.00am – 10.00pm
d) Thursday 11.00am – 10.00pm
e) Friday 11.00am – 10.00pm
f) Saturday 9.00am – 10.00pm
g) Sunday 9.00am – 5.30pm

Approved patron capacity

52

Upon leaving please respect local residents by minimising noise.”

The signage required by this condition is to be erected prior to the commencement of operations. This condition has been imposed to clearly identify the hours and patron capacity of the licensed premises.

Standard Condition: I9

I.4 Neighbourhood Amenity – Licensed Premises

The management of the premises:

a) Shall ensure persons entering and leaving the premises do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.
b) Shall ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or premises operations. If so directed by Council or by NSW Police, the Management is to employ private security staff to ensure that this condition is complied with.

c) Shall record in a Register full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided.

d) Shall respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by management / staff to resolve such complaint/s shall be recorded in the Register.

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.

Note: The lead agency for the enforcement of this condition is NSW Police.

Standard Condition: I10

I.5 Glass sorting or collection

Glass must not be emptied or transferred from one receptacle to another anywhere in a public place. All glass must be emptied/transfered within the premises and removed in containers.

No bottle or glass sorting, recycling or collection shall take place between 8.00pm and 8.00am Sunday to Friday and between 9.00pm Saturday and 10am Sundays and Public Holidays.

This condition is imposed to protect the amenity of neighbouring residents.

Standard Condition: I17

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

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

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

Standard Condition: I22

I.7 Food Premises - Maintenance of Food Premises

The food premises must be maintained in accordance with the Food Act 2003, Food Regulation 2004; the Food Standards Code as published by Food Standards Australia and New Zealand and Australian Standard AS 4674-2004: Construction and fit out of food premises.

This condition has been imposed to protect public health.
I.8 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).

I.9 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:
J. Miscellaneous Conditions

Nil.

K. Advisings

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

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

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

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

Warnings as to potential maximum penalties

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

Warning as to enforcement and legal costs

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

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

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: K1

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 an email to HEROC at [disabdis@humanrights.gov.au](mailto:disabdis@humanrights.gov.au).

Standard Advising: K3

K.4 NSW Police Service and Road Closures

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

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

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

Standard Advising: K4

K.5 Builders Licences and Owner Builders Permits

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


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

Standard Condition: K5
K.6 Building Standards - Guide to Standards and Tolerances

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

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

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

The Guide can be 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.7 Workcover requirements

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

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

Standard Condition: K7

K.8 Asbestos Removal, Repair or Disturbance

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

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

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

a) The Occupational Health and Safety Act 2000;
b) The Occupational Health and Safety Regulation 2001;
Note: The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259. Under the Occupational Health and Safety Regulation 2001, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work. Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. You should make yourself aware of the requirements by visiting www.workcover.nsw.gov.au or one of Workcover NSW’s offices for further advice.

Standard Advising: K8

K.9 Lead Paint


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

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

Standard Advising: K9

K.10 Dividing Fences

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

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

Standard Advising: K10

K.11 Appeal

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

**K.12 Release of Security**

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

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

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

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

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


**K.13 Recycling of Demolition and Building Material**

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

**K.14 Owner Builders**

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

*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 Keulemans
Councillor Levenston
Councillor Marano

**Against the Motion**

Nil

5/0

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**Item No:** D8

**REGISTER OF CURRENT LAND AND ENVIRONMENT COURT MATTERS AND REGISTER FOR COURT PROCEEDINGS FOR BUILDING CONTROL, ENVIRONMENTAL CONTROL AND HEALTH CONTROL**

**Author:** Grace Hawley, PA to Manager, Development Control

**File No:** 15/74435

**Reason for Report:** Update DCC on all Legal Matters

*(Levenston/Keulemans)*

**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 for Court Proceedings for Building Control, Environmental Control and Health Control be received and noted.

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**Items to be Submitted to the Council for Decision with Recommendations from this Committee**

**ITEM No.** R1

**FILE No.** DA 68/2015/1

**ADDRESS** 15 Old South Head Road VAUCLUSE (Christison Park)

**PROPOSAL** Proposed outdoor seating located within Christison Park to be used in conjunction with the adjacent cafe

**Note:**

Councillor Keulemans declared a Non-Significant Non-Pecuniary Interest in this Item, as Anthony Boskovitz, an objector to this matter, was a former Liberal Party Councillor. Councillor Keulemans does not believe it would affect his vote.

**Note:**

Councillor Marano declared a Non-Significant Non-Pecuniary Interest in this Item, as Anthony Boskovitz, an objector to this matter, was a former Liberal Party Councillor. Councillor Marano does not believe it would affect his vote.
Note: Councillor Levenston declared a Non-Significant Non-Pecuniary Interest in this Item, as Anthony Boskovitz, an objector to this matter, was a former Liberal Party Councillor. Councillor Levenston does not believe it would affect his vote.

Note: Councillor Bennett declared a Non-Significant Non-Pecuniary Interest in this Item, as Anthony Boskovitz, an objector to this matter, was a former Liberal Party Councillor. Councillor Bennett does not believe it would affect his vote.

Note: Late correspondence was tabled by Council’s Team Leader, Eleanor Smith (2 pieces), Boskovitz & Associates (2 pieces), Ericka SCPAG, Tim Christian, Jeanne Bridgers, Adrian & Merissa Oldham, Annette Guerry, Gerald Camberg, Clarissa Wilson, Andrew Rawle, Jacqueline Greening, Elizabeth Clunies-Ross, Ian & Ann Loveridge, Ariel Hefer, Nicola Grieve, Sophie Landa, Keren Rockman-Sawicki, Stephanie Atkinson, Robin Derricourt, Laszlo Kovacs, Marianne Derofe, Tara Marek – Petition, Pamela Jacob, Philip Drake-Brockman, Steffan Jacob & Andre John.

Note: Ericka Van Aalst of SCPAG, an objector & Anthony Boskovitz for the Applicant, addressed the Committee.

Note: The Committee deleted original Condition Nos. A.5 & A.6 (deletion of bollards) & last bullet point in Condition No. I.4 (speakers & amplified equipment).

(Elsing/Levenston)

Recommendation:

THAT the Council, as the consent authority, grant development consent to Development Application No. 68/2015/1 for proposed outdoor seating located within Christison Park to be used in conjunction with the adjacent café, on land at 15 Old South Head Road 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.

**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>A2301 Rev. A</td>
<td>Proposed outdoor seating area</td>
<td>MPR Design Group Pty Ltd</td>
<td>23/03/15</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 (s80A(2) of the Act)

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

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

**Standard Condition: A8**

### A.5 Development Consent is not granted in relation to these matters

This approval does not give consent for any physical works to the proposed outdoor seating area. Specifically, no approval is granted for any modifications to the existing sandstone flagging, the existing timber bench, or any works to the cafe which encroaches upon Council land.

**Standard Condition: A9**
B. **Conditions which must be satisfied prior to the demolition of any building or construction**

No relevant conditions

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

No relevant conditions

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

No relevant conditions

E. **Conditions which must be satisfied during any development work**

No relevant conditions

F. **Conditions which must be satisfied prior to the use of the outdoor seating area**

F.1 **Licence**

No occupation of Christison Park may occur until an appropriate licence agreement in accordance with The Local Government Act 1993 and Crown Lands Act 1989 has been entered into with Council.

The Licence agreement is subject to approval by Woollahra Council and NSW Ministers for Local Government and Crown Lands and reserve the right to not enter into a licence agreement even where development consent for the use has been obtained.

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))**

No Conditions

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

I.1 **Hours of use**

The hours of use are limited to the following:

- Monday to Saturday: 7am to 7pm
- Sunday and Public Holiday: 9am to 6pm

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.
Note: Deliveries to or dispatches from the site must not be made outside these hours. This condition does not apply to activities such as cleaning which takes place wholly within the building and which are not audible within any adjoining residential dwelling. If internal activities are audible within any adjoining residential dwelling such that they cause a nuisance to the occupiers of such dwelling then such internal activities must not occur outside these hours of use. This condition does not restrict the operation of noise pollution laws.

Standard Condition: I1

I.2 Litter Patrols

Litter patrols are to be undertaken to collect and dispose of all litter and waste in the public areas adjacent to the premises. Such patrols will take place intermittently during the hours of operation with the final patrol conducted at the cessation of trade. A litter patrol Register must be maintained and kept on the premises at all times detailing date, time of patrol, staff member responsible, and manager’s signature.

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.

Standard Condition: I11

I.3 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.4 Outdoor Seating

- The outdoor dining tables are not to be set with cutlery or crockery until such time as the table is occupied;
- The outdoor dining area must be regularly cleaned during all hours of operation for both hygiene and presenting a continuous well cared for image;
- 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;
• The area shall be kept clean and free of rubbish and debris at all times;
• All spills occurring due to service or by patrons shall be cleaned immediately;
• 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;

I.5 Temporary Barricades

Temporary barricade to be removed after each operation. Design of the barricade should be in consultation with the Open Space and Trees team.

I.6 Location of tables and chairs

The tables and chairs shall remain in the area marked as sandstone flagging and not expand on the park or adjoining footpaths. Occupation of areas outside the licence area may result in termination of the licence.

I.7 Removal of tables and chairs

All seating and chairs shall be removed after each operation and stored within the premises.

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

K.2 **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.

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

K.3 **Appeal**

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Ms Z Piper, Assessment Officer, on (02) 9391 7126.

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

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

*Standard Advising: K1, K6, K14*
K.4 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.5 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.

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
For the Motion                       Against the Motion
Councillor Bennett                    Nil
Councillor Elsing                     Councillor Keulemans
Councillor Keulemans                  Councillor Levenston
Councillor Levenston                  Councillor Marano
5/0

ITEM No.                             R2
FILE No.                              DA 130/2015/1
ADDRESS                              361-441 Glenmore Road PADDINGTON (Trumper Park)
PROPOSAL                              Replacement of four (4) x 18m high existing floodlight poles & luminaires with four (4) x 25m high floodlight poles & luminaires to Trumper Park

Note: Philip O'Donovan, an objector, addressed the Committee.

Note: The Committee added new Condition No. C.1(b) (Colour of Light Poles).

(Elsing/Keulemans)

Recommendation:

THAT the Council, as the consent authority, grant development consent to Development Application No. 130/2015/1 for the replacement of four (4) x 18m high existing floodlight poles and luminaires with four (4) x 25m high floodlight poles and luminaires to Trumper Park on land at 361-441 Glenmore Road Paddington, subject to the following conditions:

A. General Conditions

A.1 Conditions

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

Standard Condition: A1

A.2 Definitions

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

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

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

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

Council means Woollahra Municipal Council

Court means the Land and Environment Court

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

Stormwater Drainage System means all works, facilities and documentation relating to:
- 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</td>
<td>Site Analysis Plan</td>
<td>Woollahra Municipal Council</td>
<td>16 Feb 2015</td>
</tr>
<tr>
<td>DA02</td>
<td>General Arrangement Plan</td>
<td>Woollahra Municipal Council</td>
<td>16 Feb 2015</td>
</tr>
<tr>
<td>DA03</td>
<td>Elevations</td>
<td>Woollahra Municipal Council</td>
<td>25 Feb 2015</td>
</tr>
<tr>
<td>DA04</td>
<td>Cross Sections</td>
<td>Woollahra Municipal Council</td>
<td>25 Feb 2015</td>
</tr>
<tr>
<td>DA05</td>
<td>Supporting Information</td>
<td>Woollahra Municipal Council</td>
<td>4 Mar 2014</td>
</tr>
<tr>
<td>DA06</td>
<td>On Field Light Lux Levels Measurements</td>
<td>Woollahra Municipal Council</td>
<td>4 Mar 2014</td>
</tr>
<tr>
<td>DA07</td>
<td>Spill Light Plan</td>
<td>Woollahra Municipal Council</td>
<td>4 Mar 2014</td>
</tr>
<tr>
<td>N/A</td>
<td>Letter – Lighting Overview</td>
<td>Gerard Professional Solutions Pty Ltd</td>
<td>9 Feb 2015</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 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 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>Acacia sp.</em> (Wattle)</td>
<td>Adjacent to LP2</td>
<td>5 height x 3 crown spread</td>
</tr>
</tbody>
</table>

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

b) Approved Plans and supporting documents

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Author/Drawn</th>
<th>Date(s)</th>
</tr>
</thead>
</table>

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.

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 (Metres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 x</td>
<td>Eucalyptus species</td>
<td>adjacent to Light Pole 3</td>
<td>5m</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Council Ref No</th>
<th>Species</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><em>Platanus x hybrida</em> (London Plane)</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.3 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>
</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) Repositioning of Light Pole 3 (LP3)
Light Pole 3 (LP3) shall be repositioned 10 metres to the north of its current proposed position.

This condition has been imposed to minimise impacts to the adjacent trees.

b) Colour of Light Poles
The entire light poles (excluding luminaires) are to be painted green in colour consistent with the colour of the existing light poles to be removed.

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 Building and Construction Industry Long Service Payments Act 1986</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Long Service Levy</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contact LSL Corporation or use online calculator</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No</td>
<td></td>
<td></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 Environmental Planning and Assessment Act 1979</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Property Damage Security Deposit</strong></td>
<td>$4,371</td>
<td>No</td>
<td>T115</td>
</tr>
<tr>
<td>- making good any damage caused to any property of the Council</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>INSPECTION FEES</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>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><strong>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</strong></td>
<td>$4,556 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.

Standard Condition: C5

C.3 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.4 Protection of Parkland

An appropriate Erosion and Sediment Control Plan must be implemented during construction to ensure that material does not migrate off-site into Trumper Park and Oval.

C.5 Protection of Urban Bushland

Works must not impact on the vegetation of Trumper Park. An appropriate Erosion and Sediment Control Plan must be implemented during construction to ensure that material does not migrate off-site into the Park.
C.6 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.7 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

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/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.

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:

- must be a standard flushing toilet, and
- must be connected to a public sewer, or
- if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the council, or
- 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 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.6 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.7 Access through Public Open Space

Access to Trumper Park will not be permitted unless prior written approval has been obtained by Council’s Open Space & Tree Department. An application must be submitted for assessment with a minimum of four weeks prior notice to the commencement of works. It must be approved by Council before any construction access is granted.
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 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.


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 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.9 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.110 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.11 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.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 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
e) Evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained
**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

**E.17 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.

**E.18 Excavated Soils – Classification & Disposal**

All soils from excavation and associated trench works resulting from the installation of the proposed lighting poles shall be classified and removed from Trumper Park to an authorised waste disposal facility as identified in soil testing undertaken by Sydney Environmental & Soil Laboratories 2012.

**Note:** Test results concluded that soils at Trumper Park consist of unknown imported fill material that was classified as General Solid Waste – non-putrescible (not suitable for recycling) for the top layer from 0.0 – 0.9m, and the bottom layer from 0.9 – 1.9m classified as Restricted Solid Waste.
E.19 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.20 Storage of building material in Public Open Space

Building, excavation or demolition material and plant must not be stored on Council’s public open space (Trumper Park) unless prior written approval has been obtained by Council’s Open Space & Trees Department.

E.21 Protection of Vegetation

- Equipment is not to be stored or set-up within 2 metres of any tree trunk, shrub or garden bed.
- No vehicle is to drive or stand within 2 metres of any tree trunk, shrub or garden bed.
- Shrubs, trees or other vegetation are not to be moved, lopped or damaged.

E.22 Generators and Cabling

The applicant is responsible for ensuring all power cables do not affect pedestrian movement or present risks to the safety of pedestrians.

E.23 Residential Amenity

All activities are to be carried out and conducted in such a manner so as to not interfere with the amenity of the surround residents or those within the locality, particularly by way of noise emission and rubbish.

E.24 Park user Amenity

The applicant must ensure the safety of park users and provide safe pedestrian access, where possible provide detours.

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) Footings in the vicinity of trees

Excavations for footings for any structure shall not be undertaken within the specified radius from the trunks of the following trees.

<table>
<thead>
<tr>
<th>Council Ref No:</th>
<th>Species</th>
<th>Radius from centre of trunk (metres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Platanus x hybrida (London Plane)</td>
<td>7</td>
</tr>
</tbody>
</table>

Excavations for installation of piers shall be located so that no tree root with a diameter equal to or in excess of 30mm is severed or damaged. The smallest possible area shall be excavated which allows construction of the pier.

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 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: F6

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 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 Outdoor lighting – Sports Lighting

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

The intensity of light provided to the sporting area must comply with AS2560 and relevant parts to this Australian Standard.

This condition has been imposed to control the obtrusive effects of outdoor lighting, to limit the hours of use to protect the amenity of neighbours and to maintain safe conditions for sporting activities.

I.2 Hours of use

The hours of use of the flood lights are limited to the following:

a) Monday to Friday: 5.00pm to 9.30pm

The lighting must be switched off by automatic timer at the 9.30pm curfew.

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.

Standard Condition: I1

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.

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:

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 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.

Standard Condition: K14

K.4 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.5 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.6 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](http://www.woollahra.nsw.gov.au) or you may contact Council on 9391-7000 for further advice.

**Standard Condition: K19**

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 Keulemans  
Councillor Levenston  
Councillor Marano

**Against the Motion**  
Nil

**ITEM No.**  
R3 Recommendation to Council

**FILE No.**  
DA 517/2014/1

**PROPERTY DETAILS**  
6-8 Cranbrook Road, Bellevue Hill (Drayton House) and Cranbrook Road reserve

**PROPOSAL:**  
Demolition of the existing buildings and removal of trees and the construction of a part three part four storey aged care facility comprising 59 rooms (63 beds) including a roof garden and basement level car parking and storage; new landscaping, fences and siteworks

**Note:**  
Councillor Elsing declared a Non-Significant, Non-Pecuniary Interest in this Item, as she is a member of the Joint Regional Planning Panel and will be dealing with the matter at the JRPP. Councillor Elsing vacated the meeting and did not participate in the debate or vote on the matter.

**Note:**  
Councillor Keulemans declared a Non-Significant Non-Pecuniary Interest in this Item, as Anthony Boskovitz, an objector to this matter was a former Liberal Party Councillor. Councillor Keulemans does not believe it would affect his vote.

**Note:**  
Councillor Marano declared a Non-Significant Non-Pecuniary Interest in this Item, as Anthony Boskovitz, an objector to this matter was a former Liberal Party Councillor. Councillor Marano does not believe it would affect his vote.

**Note:**  
Councillor Levenston declared a Non-Significant Non-Pecuniary Interest in this Item, as Anthony Boskovitz, an objector to this matter was a former Liberal Party Councillor. Councillor Levenston does not believe it would affect his vote.

**Note:**  
Councillor Bennett declared a Non-Significant Non-Pecuniary Interest in this Item, as Anthony Boskovitz, an objector to this matter was a former Liberal Party Councillor. Councillor Bennett does not believe it would affect his vote.
Note: Late correspondence was tabled by Council’s Team Leader, David Waghorn & Senior Assessment Officer, Sarah Richards & Boskovitz & Associates.

Note: Andrew Bulloch, Emma Gray, Sue Donato, Janet Barlow & Anthony Boskovitz, objectors & Markam Ralph Architect for the Applicant, addressed the Committee.

Note: In accordance with Council’s meeting procedures and policy this matter is referred to full Council to allow Council to determine whether it seeks to make a submission to the JRPP.

(Keulemans/Levenston)

Recommendation:

That Development Control Committee advises the Joint Regional Planning Panel (JRPP), that it raises no objection to the granting of development consent to Development Application No. 517/2014/1 for the demolition of the existing buildings, removal of trees and the construction of a part three part four storey aged care facility comprising 59 rooms (63 beds) including a roof garden and basement level car parking and storage; new landscaping, fences and siteworks on land at 6-8 Cranbrook Road, Bellevue Hill (Drayton House) and Cranbrook Road reserve, subject to the conditions recommended in the officer’s report.

Note: The officer’s report contains the following recommendations.

Note: The Committee added new Condition No. C.1(d) (Relocation of living areas) as per late correspondence tabled by Senior Assessment Officer & C.1(j) (Setback).

Pursuant to Section 80(1) of the Environmental Planning and Assessment Act 1979

THAT the Joint Regional Planning Panel, as the consent authority, is of the opinion that the objection under State Environmental Planning Policy No. 1 – Development Standards to Height and Storeys – development standards under Clause 40(4) are well founded. The Joint Regional Planning Panel 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 Joint Regional Planning Panel, as the consent authority, being satisfied that the objection under SEPP No. 1 is well founded and also being of the opinion that the granting of consent to Development Application No. 517/2014/1 is consistent with the aims of the Policy, grant development consent to DA No. 517/2014/1 for demolition of the existing buildings, removal of trees and the construction of a part three part four storey aged care facility comprising 59 rooms (63 beds) including a roof garden and basement level car parking and storage; new landscaping, fences and site works on land at 6-8 Cranbrook Road, Bellevue Hill, subject to the following conditions:

Part A:

1. Deferred Commencement - (s80(3) of the Act, cl.95 of the Regulation)

   To ensure the structures on Council land accord with Council’s “Policy for Managing Encroachments on Council Road Reserves”, development consent is granted subject that this consent is not to operate until the person with the benefit of this consent satisfies the Council in relation to the following:
1. Complete and lodge Council form “Application to formalise an existing encroachment on Council Land”. An Application fee is payable and;

2. The encroaching structures must be formalised by:
   i. The Subdivision of the road reserve to excise the area encroached upon, closure of the road parcel and Sale of the land to the owner of 6-8 Cranbrook Road OR;
   ii. Enter into an easement agreement with Woollahra Council under Section 181(a) Conveyancing Act 1919 permitting the permanent structures within the road reserve to remain for the life of the building or the redevelopment of the structure or the site, whichever occurs first, OR;

Notes:
1. The Applicant is to contact Council’s Senior Property Officer to further discuss the encroachment formalising process.
2. Sale of Road reserve is subject to Council’s Sale of Land policy and resolution to sell the land.
3. If formalising the encroachment by easement, the Applicant must enter into a registrable easement agreement with Council (using Council’s Template) for the encroaching structures.
4. The area occupied for an easement will be independently valued and payment is to be made to Council in compensation for the alienation of public land for private use.
5. Granting of the easement is subject to Council resolution, payment of compensation and all Council’s costs in the matter; including but not limited to valuation, survey, and legal fees.

**Period within which evidence must be produced**

The applicant must produce evidence to Council sufficient enough to enable it to be satisfied as to those matters above within 365 days (1 year) of the date of determination.

Clause 95(4) of the Regulation:

“The applicant may produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters and, if the consent authority has specified a period for the purpose, the evidence must be produced within that period.”

If the evidence is not produced within 365 days (1 year) of the date of determination this deferred commencement consent is of no effect, the consent does not operate and no construction certificate can be issued. No development can lawfully occur under this consent unless it operates.

**Note:** Nothing in the Act prevents a person from doing such things as may be necessary to comply with this condition. (See section 80(3) of the Act)

This consent does not operate until Council has acknowledged compliance with this condition in writing.

**Note:** Implementing the development prior to written confirmation of compliance may result in legal proceedings. If such proceedings are required Council will seek all costs associated with such proceedings as well as any penalty or order that the Court may impose. No Construction Certificate can be issued until all conditions including this condition required to be satisfied prior to the issue of any Construction Certificate have been satisfied.

**Standard Condition: A3**
Part B:

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>
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<tr>
<td>A010 Rev 01</td>
<td>Plans</td>
<td>Morrison Design Partnership</td>
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<td>A301 Rev 01</td>
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<td></td>
</tr>
<tr>
<td>A303 Rev 01</td>
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<td></td>
<td></td>
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<td>A304 Rev 01</td>
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<tr>
<td>A305 Rev 01</td>
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<td>A402 Rev 01</td>
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<td>A113 Rev 02</td>
<td>Plans</td>
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<td>A011 Rev 03</td>
<td></td>
<td></td>
<td>05/03/2015</td>
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<td>05/03/2015</td>
</tr>
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<td>A110 Rev 05</td>
<td>Plan</td>
<td>Morrison Design Partnership</td>
<td>02/04/2015</td>
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<tr>
<td>1/2 Rev G and 2/2 Rev E</td>
<td>Landscape plans</td>
<td>15/04/2015</td>
<td></td>
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<td>-</td>
<td>SWMMP</td>
<td>Morrison Design Partnership</td>
<td>11/11/2014</td>
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<td>27770Lrpt</td>
<td>Geotechnical Investigation</td>
<td>JK Geotechnics</td>
<td>27/10/2014</td>
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<td>27770L Let</td>
<td>Hydrogeotechnical Assessment</td>
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<td>05/03/2015</td>
</tr>
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<td>Dwg 170.00.00 B</td>
<td>Stormwater Management Plan</td>
<td>DHC Consultants</td>
<td>25/02/2015</td>
</tr>
<tr>
<td>Dwg 110.00.01</td>
<td>Bulk earthworks</td>
<td>Morrison Design Partnership</td>
<td>28/05/2014</td>
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<td>14.31104v01</td>
<td>Traffic Report</td>
<td>Trafflix</td>
<td>02/04/2015</td>
</tr>
<tr>
<td>20141197.1/0411A/R1/MF Rev 0 &amp; 1</td>
<td>Acoustic Report</td>
<td>Acoustic Logic</td>
<td>4 Nov 2014</td>
</tr>
<tr>
<td>Issue B</td>
<td>Arboricultural Impact Assessment Report</td>
<td>Landscape Matrix Pty Ltd</td>
<td>21 Nov 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**

**Standard Condition: A8**

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

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

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

**Standard Condition: A8**
A.5 Works on Council Land

1. No works on Council roads may commence until an application has been made and approval granted under S.138 of the Roads Act 1993
2. No occupation of Council property may occur until an appropriate legal arrangement has been entered into with Council

A.6 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>12</td>
<td>Washingtonia filifera (American Cotton palm)</td>
<td>Western boundary, adjacent to Cranbrook Road</td>
<td>12 x 2 metres</td>
</tr>
</tbody>
</table>

- 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>1</td>
<td>Lophostemon confertus (Brushbox)</td>
<td>Front of property Council nature strip</td>
<td>9 x 8 metres</td>
<td>$9000</td>
</tr>
<tr>
<td>13</td>
<td>Lophostemon confertus (Brushbox)</td>
<td>Front of property Council nature strip</td>
<td>2 x 1 metres</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Lophostemon confertus (Brushbox)</td>
<td>Front of property Council nature strip</td>
<td>2 x 1 metres</td>
<td></td>
</tr>
</tbody>
</table>

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

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>3</td>
<td>Cinnamomum camphora (Camphor Laurel)</td>
<td>North Western corner of property, near Cranbrook Road.</td>
<td>28 x 28 metres</td>
</tr>
<tr>
<td>4</td>
<td>Carya illinoinensis (Pecan)</td>
<td>North Eastern area of property</td>
<td>23 x 15 metres</td>
</tr>
<tr>
<td>5</td>
<td>Lophostemon confertus (Brushbox)</td>
<td>North Eastern area of property</td>
<td>24 x 12 metres</td>
</tr>
<tr>
<td>6</td>
<td>Celtis sinensis (Chinese Nettle)</td>
<td>North Eastern area of property</td>
<td>10 x 7 metres</td>
</tr>
<tr>
<td>7</td>
<td>Ulmus parvifolia (Chinese Weeping Elm)</td>
<td>Rear Southern area of property</td>
<td>15 x 14 metres</td>
</tr>
<tr>
<td>8</td>
<td>Ulmus parvifolia (Chinese Weeping Elm)</td>
<td>Rear Southern boundary</td>
<td>12 x 14 metres</td>
</tr>
<tr>
<td>10</td>
<td>Ceratopetalum gummiferum (NSW Christmas Bush)</td>
<td>Towards Western boundary</td>
<td>8 x 8 metres</td>
</tr>
<tr>
<td>11</td>
<td>Celtis sinensis (Chinese Nettle)</td>
<td>Towards Western boundary</td>
<td>11 x 12 metres</td>
</tr>
</tbody>
</table>

Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.
A.7 General Terms of Approval – NSW Office of Water

General Terms of Approval appropriate to the proposed aquifer interference activity are provided as required by s.91A (2) of the *Environmental Planning and Assessment Act 1979*.

**General**

1. An authorisation shall be obtained from NSW Office of Water for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified in the authorisation.

2. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be in contact with groundwater watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for reasonably foreseeable high water table elevations to prevent potential future inundation.

3. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

**Prior to excavation**

4. Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken. These measurements should be included in a report provided to the NSW Office of Water in support of the dewatering licence application, along with a schedule and indicative level predictions for the proposed ongoing water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report.

5. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the parameters (e.g. permeability predicted by slug-testing, pump-testing or other means) and calculation method shall be included in the report submitted to the NSW Office of Water in support of the dewatering licence.

6. A copy of a valid development consent for the project shall be provided in the report to the NSW Office of Water.

7. Groundwater quality testing shall be conducted on a suitable number of samples using a suitable suite of analytes and completed by a NATA-certified laboratory, with the results collated and certificates appended to a report supplied to the NSW Office of Water. Samples must be taken prior to the substantial commencement of dewatering, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.

8. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (sometimes referred to as “tailwater”) must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.
9. Contaminated groundwater (i.e. above appropriate NEPM 2013 investigation thresholds) shall not be reinjected into any aquifer without the specific authorisation of the NSW Environment Protection Authority (any such discharge would be regulated through a licence issued under the Protection of the Environment Operations Act 1997 [POEO Act]). The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.

**During excavation**

10. Engineering measures designed to transfer groundwater around the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.

11. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.

12. Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Monthly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a report provided to the NSW Office of Water after dewatering has ceased. Daily records of groundwater levels are to be kept and a report provided to the NSW Office of Water after dewatering has ceased.

13. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.

14. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulphate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

15. The location and construction of groundwater extraction works that are abandoned are to be recorded and a report provided to the NSW Office of Water after dewatering has ceased. The method of abandonment is to be identified in the documentation.

16. Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water under appropriate safety procedures.

**Following excavation**

17. All monitoring records must be provided to the NSW Office of Water after the required monitoring period has ended together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.

*Note:* These conditions have not been imposed by Council but are required to be incorporate as conditions of development consent. Where there is any inconsistency between these general terms of approval and other conditions of this consent the more onerous requirement prevails.

**A.8 Restrictions upon the occupation of the development**

In accordance with the provisions of *Clause 18 Restrictions on occupation* under SEPP (Housing for Seniors or People with a Disability) 2004, the occupation of the development is limited to the following:
i) Seniors or people who have a disability,
ii) People who live within the same household with seniors or people who have a disability,
iii) Staff employed to assist in the administration of and provision of services to the residential care facility and the serviced self-care housing.

A positive covenant, pursuant to Section 88E of the Conveyancing Act 1919, shall be created on the title of the subject property, restricting the occupation of the development in accordance with the above.

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 Noise Control 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, it is recommended that the NSW Department of Environment & Climate Change: Construction Noise Guideline 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.

B.3 Demolition and Construction Noise Activity – Noise Assessment

Prior to the commencement of demolition works, further documentation is required providing an acoustic assessment of the duration and intensity of construction noise activity. The acoustic study should identify construction noise goals, the nature and duration of construction, the impact on residential receivers and noise mitigation strategies where required having regard to the NSW Construction Noise Guidelines.

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>1</td>
<td><em>Lophostemon confertus</em></td>
<td>Front of property Council nature strip</td>
<td>3 metres</td>
</tr>
<tr>
<td>13</td>
<td><em>Lophostemon confertus</em></td>
<td>Front of property Council nature strip</td>
<td>2 metres</td>
</tr>
<tr>
<td>14</td>
<td><em>Lophostemon confertus</em></td>
<td>Front of property Council nature strip</td>
<td>2 metres</td>
</tr>
</tbody>
</table>

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

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>1</td>
<td><em>Lophostemon confertus</em></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.

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>Approved works</th>
</tr>
</thead>
</table>
| 1              | *Lophostemon confertus* (Brushbox) | • Construction of the proposed driveway under supervision of the site arborist.  
• Construction of the proposed front fence under supervision of the site arborist. |

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>
</table>
| Installation of tree protection fencing | • Compliance with tree protection measures  
• Removal of existing concrete is carried out utilising non-destructive techniques with the use of small hand held machinery and hand tools.  
• Any exposed tree roots greater than 30 mm in diameter are retained and protected in accordance with the recommendations by the site arborist. |
| Demolition of existing carport, driveways and fences within the TPZ of Trees 1 specified within the submitted Landscape Matrix Construction impact statement. | • Carried out using small hand tools only.  
• Pier holes are positioned to avoid the severance of and damage to roots greater than 30mm.  
• Any exposed tree roots within the proposed driveway area greater than 30 mm in diameter are adequately assessed by the site arborist with recommendations regarding their retention / protection or severance fully documented and implemented prior to construction. |
| Excavation to accommodate the proposed driveway, front fence within the specified TPZ of Tree 1 as outlined in the submitted Landscape Matrix Construction Tree impact report. | |
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.8 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 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 eastern balustrade on the roof garden is to be set back a minimum of 12m from the eastern side boundary in order to minimise privacy impacts to neighbouring properties to the east

b) The second level southern and eastern roof terraces/landscaped courtyard areas (Areas 6 on the landscape plan 1 of 2 Issue G and 2 of 2 Issue E dated 15/04/2015 by Outhouse Design) are to be non-trafficable except for maintenance in order to minimise amenity impacts to neighbouring properties to the east and south. Privacy screening to these areas is deleted given that the areas are to be non-trafficable

c) Privacy screens to a height of 1.5m above finished floor level are required to be added to all elevations of the second floor level private terraces of bedrooms 53 and 54 in order to maintain privacy of adjoining neighbours to the east and south

d) Internal reconfiguration is required to relocate the lounge/dining rooms at ground, first and second floor levels from the western side of the building to the north-western corner of the development at each level (approximately in place of units 2 and 3 at ground floor level, units 23 and 24 at first floor level and units 45 and 46 at second floor level) in accordance with Section 35(b) of SEPP (Housing for Seniors or People with a disability) 2004

e) The basement parking area (excluding the driveway access but including the fire stair and fire sprinkler valve set and fire hydrant booster pump room) and timber arbour above the driveway access are to be set back 1.5m from the eastern side boundary in accordance with C 5.2.16 of WRDCP 2003

f) The main switch and comms room are to be relocated within the storage areas of the basement to minimise impacts on neighbouring residences

g) The pergola located in the south-eastern corner of the site is to achieve a maximum height of no greater than 3.6m in accordance with C 5.2.4 of WRDCP 2003

h) The water features to the front (north) of the site and to the rear in the south-eastern corner are to achieve a maximum depth of not greater than 300mm

i) All roof top planting is to be of species that will attain a mature height of not more than 3m in order to preserve public and private views

j) The south-eastern corner of the building (in the location of rooms 35 and 36) on the first floor level is to be setback a minimum of 10.5m from the eastern boundary and align with the eastern elevation wall of rooms 37-41. The roof terrace on the second floor level is to be setback the corresponding amount (minimum of 10.5m from the eastern boundary). The roof above the ground floor level may contain landscaping but must be non-trafficable and only accessible for maintenance purposes.
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> 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>Contact LSL Corporation or use online calculator</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Property Damage Security Deposit - making good any damage caused to any property of the Council</td>
<td>$459,837.00</td>
<td>No</td>
<td>T115</td>
</tr>
<tr>
<td>Tree Damage Security Deposit – making good any damage caused to any public tree</td>
<td>$9,000.00</td>
<td>No</td>
<td>T114</td>
</tr>
<tr>
<td>Infrastructure Works Bond – S.138</td>
<td>$33,140.00</td>
<td>No</td>
<td>T113</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>$214,716.50 + 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>Public Tree Management Inspection Fee</td>
<td>$180.00</td>
<td>No</td>
<td>T95</td>
</tr>
<tr>
<td>Public Road/Footpath Infrastructure Inspection Fee</td>
<td>$418.00</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Security Administration Fee</td>
<td>$185.00</td>
<td>No</td>
<td>T16</td>
</tr>
<tr>
<td><strong>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</strong></td>
<td>$717,476.50 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 Road and Public Domain Works – Council approval required

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

Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage) within existing roads, must be submitted to Council’s Development Engineer and approved by Council under the Roads Act 1993, before the issue of any Construction Certificate. To accommodate this requirement, the following infrastructure works must be carried out on Council property at the Applicants expense:

Road & Footpath
- Full width vehicular crossings having a width of 4.2m including new layback and gutter in accordance with Council’s standard drawing RF2.
- Removal and replacement of the existing footpath for the full width of the property in accordance with Council’s standard drawing RF3.
- Removal of all driveway crossings and kerb laybacks which will be no longer required.
- Reinstatement of footpath, kerb and gutter to match existing.
- Where a grass verge exists, the balance of the area between the footpath and the kerb 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 Couch turf.

Drainage
- Construction of a standard gully pit in the kerb adjacent to the driveway and on the northern side of Cranbrook Road to connect into the existing drainage system in accordance with Council’s Standard “Grated Gully Pit with extended Kerb Inlet” drawing DR1.
- Construction of approximately 20m of 375mm RCP in-ground drainage line under Cranbrook Road. The line must connect the new gully pit to the existing Council pit located on the northern side of Cranbrook Road
- The developer shall be responsible for carrying out any service investigations to allow a gravity connection.

Bond
- A bond of $33,140 (as required in Condition C.2) will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original and not have an expiry date.
- Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or completing the works if they do not meet Council’s requirements.
- The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements.

An “Application to carry out works in a Public Road” form (available from Councils web-site http://www.woollahra.nsw.gov.au) must be completed and lodged, with the Application fee, at Councils Customer Services counter. 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.

The design of the works must be in accordance with Council’s Draft Stormwater DCP available from Council's website www.woollahra.nsw.gov.au. Four weeks should be allowed for assessment.

Access levels and grades to and within the development must match access levels and grades within the road approved under the Roads Act 1993.

All public domain design and construction works must comply with Council’s “Specification for Roadworks, Drainage and Miscellaneous Works” dated January 2003 unless expressly provided otherwise by these conditions. This specification can be downloaded from www.woollahra.nsw.gov.au.

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

Note: Four (4) weeks is to be allowed for the Roads Act assessment

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

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

Standard Condition: C13

C.4 Utility Services Generally

The Construction Certificate plans and specifications, required by clause 139 of the Regulation, must demonstrate that all utility services (telecommunications, electricity, gas, water and waste water) will be provided underground. All service ducts, pipes and conduits must be provided within the fabric of the building (excluding stormwater down pipes).

Where telecommunications and electricity are provided from existing poles in the road they must, in accordance with the relevant suppliers’ requirements, be carried to the site underground directly to the main switch board within the fabric of the building.

Note: Where adequate provision has not been made for an electrical sub-station within the building, this may necessitate the lodgement of an application to amend this consent under section 96 of the Act to detail the location, landscape/streetscape impacts and compliance with AS2890 as applicable.

The location of service poles and substations required by the relevant suppliers must be shown upon the plans submitted with any Construction Certificate application together with a letter from each relevant supplier setting out their requirements.
Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building unless expressly shown upon the approved DA plans. Details confirming compliance with this condition must be shown on the Construction Certificate plans and/or detailed within the Construction Certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on the Construction Certificate plans.

**Note:** The intent of this condition is that the design quality of the development must not be compromised by cables, pipes, conduits, ducts, plant, equipment, electricity substations or the like placed such that they are visible from any adjoining public place. They must be contained within the building unless shown otherwise by the approved development consent plans.

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

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

Standard Condition: C20

**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 2m each side of and 3m 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.

Standard Condition: C21

C.6 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.7 Amended Landscape Plan

An amended Landscape Plan shall be prepared in accordance with Council’s DA Guide and conforming to the conditions of this Development Consent. This plan is to be submitted to Council for assessment prior to issue of the Construction Certificate. The amended landscape plan must include the following:


2) The planting of one of the following tree species in each of the Areas 1, 2, & 4 on the submitted Outhouse Design Landscape plan in a 200 litre container size at the time of planting:
   - 1 x *Jacaranda mimosifolia* (Jacaranda);
   - 1 x *Koelreuteria paniculata* (Golden Rain Tree);
   - 1 x *Angophora costata* (Sydney Red Gum);
   - 1 x *Tristaniopsis laurina* (Water Gum),

3) A notation stating that all landscaping is to be purchased from a certified nursery to ensure that advanced species (where relevant) are provided.

C.8 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.9 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.10 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.11 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 Councils 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.12 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.13 Resident Parking Scheme

Owners and occupiers of the completed development will not be permitted to participate in any Council operated on street parking permit scheme. This condition is imposed to preserve the level of on street parking availability in the vicinity of the premises and minimise impacts of traffic generation upon the surrounding road network as a result of the development.

C.14 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 Dwg 170.00.00 B by DHC consultants other than amended by this and other conditions;

b. the discharge of stormwater, by direct connection, to new stormwater drainage infrastructure on Cranbrook Road;

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 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.

Subsoil Drainage - 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.15 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 identified in the Rose Bay Floodplain Risk Management Study and Plan, by WMA dated January 2014, detailing:

a) The western edge of the driveway crest is to be set at a minimum of RL 5.08m AHD and the eastern edge of the crest is to be set at R.L. 4.90m AHD.

b) The crest of the pedestrian access is to be a minimum of R.L. 5.25m AHD.

**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.16 Light & Ventilation**

The *Construction Certificate* plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA Housing Provisions*, inclusive of *AS 1668.1*, *AS 1668.2* and *AS/NZS 3666.1*. If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert evidence of suitability. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation2000* in relation to regulated systems. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.
**Note:** Clause 98 of the Regulation requires compliance with the BCA. Clause 145 of the Regulation prevents the issue of a Construction Certificate unless the Accredited Certifier/Council is satisfied that compliance has been achieved. Schedule 1, Part 3 of the Regulation details what information must be submitted with any Construction Certificate. It is the Applicant's responsibility to demonstrate compliance through the Construction Certificate application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the Protection of the Environment Operations Act 1997 have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of AS 1668.2.

Standard Condition C59

### C.17 Acoustic Certification of Mechanical Plant & Equipment

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a professional engineer (acoustic engineer) certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the *background noise level*. 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.

Where sound attenuation is required this must be detailed.

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


Standard Condition: C62

### C.18 Design sound levels for building interiors

The *Construction Certificate* plans and specifications required by clause 139 of the *Regulation*, must provide details showing how the recommendations of the Environmental Noise Impact Assessment, prepared by Acoustic Logic will be implemented.

Design sound levels for building interiors should not exceed those recommended maximum design sound levels, $\text{L}_{\text{Aeq}}$, 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.19 Noise Control - Hydraulic Noise Control-Sound Insulation Rating of Services

That the requirements of the Building Code of Australia BCA Clause F5.6: *Ducts, Hot and Cold Domestic Water, Stormwater, Soil and Waste Pipes*, which serves or passes through more than one sole occupancy unit must be separated from habitable rooms (other than a kitchen) in any other sole occupancy unit by a weighted sound reduction index + traffic noise spectrum adaptation term of not less than 40 if it is adjacent to a habitable room, and 25 if it is adjacent to a wet area (bathroom, laundry etc.) or kitchen.

Details are to be provided by the applicant clearly indicating how this requirement will be achieved in respect to controlling hydraulic noise emission to adjoining habitable rooms.

C.20 Noise Control - Acoustic Protection of adjoining residential units-Operation of Air Conditioning Plant

The applicant must ensure that the operation of the proposed Air Conditioning System(s) and associated plant does not create interior noise intrusion and vibration to occur within any adjoining residential unit.

C.21 Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)

The basement carparking area in which vehicles powered by internal combustion engines are parked, serviced or operated are required to comply with Section 4 ‘Ventilation of Enclosures used by Vehicles with Internal Combustion Engines’ of Australian Standard 1668.2-1991. In general air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.

The basement carparking area must be naturally ventilated or provided with a combination of both supply and exhaust mechanical ventilation. The applicant is to determine the method of ventilation of the basement carparking area and provide details to the Certifying Authority accordingly. Except as varied in accordance with Clause 4.4.1 (a), (b) or (c), the basement carparking area shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with Australian Standard 1668.2-1991.

C.22 Ventilation - Internal Sanitary Rooms

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 & 2.

C.23 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/](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/](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.

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

**Standard Condition: C25**

C.24 Water and waste water - Section 73 Developers Certificate and Upgrading of existing system (Clause 25(1) WLEP 1995)

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

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


The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Waters sewer main where they are not found by inspection to be Sewer grade UPVC or copper with continuously welded joints.
Note: This condition has been imposed to ensure that where private sewer pipes are old, may leak or may be subject to root invasion (whether from existing or proposed private or public landscaping) that existing cast iron, concrete, earthenware or terracotta systems are replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Waters sewer main as part of the development, such that clause 25(1) of WLEP 1995 be satisfied. Further, leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest. See: [http://www.sydneywater.com.au/Publications/Factsheets/SewerfixLookingAfterYourSewerPipes.pdf](http://www.sydneywater.com.au/Publications/Factsheets/SewerfixLookingAfterYourSewerPipes.pdf)

Standard Condition: C22

C.25 Waste Storage - Compliance with Approved Site Waste Minimisation and Management Plan (SWMMP)

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

Waste Storage Areas must meet the following requirements:

a. Bins must be stored with lids down to prevent vermin from entering the waste containers.

b. The area must be constructed with a smooth impervious floor graded to a floor waste. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water.
c. Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter.

d. The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use.

e. Odour problems must be minimised by good exhaust ventilation.

f. Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room.

g. Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/room or bin bay.

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.

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 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 wire as specified in AS 1725.

Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced 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/overheadprotstructs.htm](http://www.workcover.nsw.gov.au/Publications/LawAndPolicy/CodesofPractice/overheadprotstructs.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 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.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 (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*.

**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,
  - if the owner-builder is required to hold an owner-builder permit under that *Act*, the number of the owner-builder permit.

c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the *Act*, to comply with the technical provisions of the State’s building laws.

**Standard Condition: D17**

**D.9 Acid Sulfate Soils Management Plan**

No acid sulfate soil testing of the site soils has been carried out; after demolition works and prior to commencement of any construction works acid sulfate soil testing is to be completed. If acid sulfate soils are encountered, the applicant shall prepare and implement an Acid Sulfate Soils Management Plan for the development site. The ASSMP shall detail appropriate methods for handling, treatment and disposal of any acid sulfate soils in accordance with the ASSMAC Guidelines. The ASSMP is to be submitted to Council for approval prior to any construction work being carried out.
D.10 Dilapidation Reports for existing buildings

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

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

a) 2A Cranbrook Road
b) 4 Cranbrook Road
c) 10 Cranbrook Road

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.

Standard Condition: D4

D.11 Piezometers for the monitoring of Ground Water Levels (GWL)

The principal contractor must provide piezometers standpipes within the excavation area and outside the shoring system. The piezometers are to be installed to monitor groundwater levels before and during all dewatering works for the construction phase.

The Ground Water Levels monitoring wells and monitoring program must be maintained until the issue of the Final Occupation Certificate.

Ground Water Levels are to be regularly monitored during the course of the works as required by the Work Method Statement for the control of Ground Water Levels. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the Ground Water Levels outside a safe range set by the Work Method Statement for the control of Ground Water Levels corrective action must be undertaken under the direction of the professional engineer (hydrological/geotechnical engineer).

Standard Condition: D7

D.12 Construction 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.13 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.14 Dilapidation Reports for Public Infrastructure

To clarify the existing state of public infrastructure prior to the commencement of any development (including prior to any demolition), the Principal Contractor must submit a dilapidation report, prepared by a professional engineer, on Council’s infrastructure within and near the development site.

The dilapidation report must be submitted to Council prior to the commencement of any work and include:

a) Photographs showing any existing damage to the road pavement fronting the site,
b) Photographs showing any existing damage to the kerb and gutter fronting the site,
c) Photographs showing any existing damage to the footway including footpath pavement fronting the site,
d) Photographs showing any existing damage to retaining walls within the footway or road, and
e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site and
f) The full name and signature of the professional engineer.

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.

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure prior to the commencement of any work. 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 Principal Contractor fails to submit the dilapidation report required by this condition and damage is occasioned to public assets adjoining the site Council will deduct from security any costs associated with remediying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose.

Standard Condition: D5
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.

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 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.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 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.10 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.11 Vibration Monitoring

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

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

Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

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

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

A copy of any written direction required by this condition must be provided to the Principal Certifying Authority within 24 hours of any event.
Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

**Note:** Professional engineer has the same mean as in Clause A1.1 of the BCA.
**Note:** Building has the same meaning as in section 4 of the Act i.e. “building includes part of a building and any structure or part of a structure”.
**Note:** Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.

**E.12 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.

**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.

**E.13 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.14 Filling of site

To the extent that this consent permits filling of the site such fill must be\textit{virgin excavated
natural material ("VENM")}.

VENM means "Virgin excavated natural material (such as clay, gravel, sand, soil and rock)
that is not mixed with any other type of waste and which has been excavated from areas of
land that are not contaminated with human-made chemicals as a result of industrial,
commercial, mining or agricultural activities and which do not contain sulphidic ores or
soils."

Note: This definition is the same as in Schedule 1 of the \textit{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 \textit{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 \textit{Protection of the Environment Operations Act 1997}.
Note: Additional information is available from the following websites:
\textbf{Illegal waste dumping} - \url{http://www.epa.nsw.gov.au/waste/dumping.htm}
\textbf{Is that fill legal?} \url{http://www.epa.nsw.gov.au/resources/012648web.epa%20fill_dl%20bro.pdf}
Standard Condition: E18

E.15 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 \textit{principal contractor or owner
builder} have the relevant approval under the \textit{Local Government Act 1993}, Crown Lands Act
1989 or \textit{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 \textit{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 \textit{principal contractor or owner builder} must
make a separate application to Council under section 68 of the \textit{Local Government Act 1993} and obtain
activity approval from Council prior to swinging or hoisting over the public place.
Note: Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the principal contractor or owner builder must obtain an access order under the Access to Neighbouring Land Act 2000 or easement under section 88K of the Conveyancing Act 1919 or section 40 of the Land & Environment Court Act 1979 as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.

Standard Condition: E19

E.16 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.17 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.18 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.19 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.20 Compliance with Council’s Specification for Roadworks, Drainage and Miscellaneous Works**

Road works and work within the Road and Footway

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

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

This condition does not set aside the need to obtain relevant approvals under the *Roads Act 1993* or *Local Government Act 1993* for works within Roads and other public places.
E.21 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.22 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.23 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.24 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.25 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.26 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.27 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.28 Compliance with Acid Sulfate Soils Management Plan

The Principal Contract / Owner Builder and any subcontractor must comply with the Acid Sulfate Soil Management Plan and the NSW Government Acid Sulfate Soils Management Advisory Committee guidelines.

Note: The Acid Sulfate Soils Management plan submitted with the Development Application sets out all the above requirements in detail.

Note: A failure to implement and maintain the Acid Sulfate Soils Management plan can result in the following environmental harm:
- damage to the soil structure so plant roots and soil organisms can't easily move about
- plant roots being burnt by acid, reducing plant health and productivity
- acid intolerant soil fauna and flora are killed, so the soil biodiversity and health are reduced
- plants and soil life can be poisoned by the available toxic metals
- loss of aquatic plants that can not survive acidic conditions
- loss of fish, crustaceans, birds and other animals
- damage to metal and concrete structures (such as bridge pylons and pipes)
Standard Condition: E28

E.29 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>1 x Angophora costata (Sydney Pink Gum) Or 1 x Jacaranda mimosifolia (Jacaranda) or 1 x Koelreuteria paniculata (Golden Rain tree) or 1 x Tristaniopsis laurina (Water gum)</td>
<td>Area 1</td>
<td>200 litre</td>
<td>8 x 5 metres</td>
</tr>
<tr>
<td>1 x Angophora costata (Sydney Pink Gum) Or 1 x Jacaranda mimosifolia (Jacaranda) or 1 x Koelreuteria paniculata (Golden Rain tree) or 1 x Tristaniopsis laurina (Water gum)</td>
<td>Area 2</td>
<td>200 litre</td>
<td>8 x 5 metres</td>
</tr>
<tr>
<td>1 x Angophora costata (Sydney Pink Gum) Or 1 x Jacaranda mimosifolia (Jacaranda) or 1 x Koelreuteria paniculata (Golden Rain tree) or 1 x Tristaniopsis laurina (Water gum)</td>
<td>Area 4</td>
<td>200 litre</td>
<td>8 x 5 metres</td>
</tr>
</tbody>
</table>

The project arborist shall document compliance with the above condition.

e) Level changes in the vicinity of trees
No level changes shall occur within the specified radius from the trunks of the following trees.

<table>
<thead>
<tr>
<th>Council Ref No:</th>
<th>Species</th>
<th>Radius from Trunk (metres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>Washingtonia filifera (American Cotton palm)</td>
<td>2.5 metres</td>
</tr>
</tbody>
</table>

The project arborist shall document compliance with the above condition.

f) 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>Lophostemon confertus (Brushbox)</td>
<td>8.3 metres</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.

g) Footings in the vicinity of trees

Footings for any structure within the specified radius from the trunks of the following trees shall be supported using an isolated pier and beam system.

<table>
<thead>
<tr>
<th>Council Ref No:</th>
<th>Species</th>
<th>Radius from centre of trunk (metres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Lophostemon confertus (Brushbox)</td>
<td>8.3 metres</td>
</tr>
</tbody>
</table>

Excavations for installation of piers shall be located so that no tree root with a diameter equal to or in excess of 30mm is severed or damaged. The smallest possible area shall be excavated which allows construction of the pier. The beam is to be placed a minimum of 100mm above ground level and is to be designed to bridge all tree roots with a diameter equal to or in excess of 30mm.

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 Compliance Certificate from Sydney Water

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

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

Standard Condition: F5

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

F.4 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.5 **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: F6

F.6 **Commissioning and Certification of Public Infrastructure Works**

The *principal contractor* or *owner builder* must submit, to the satisfaction of Woollahra Municipal Council, certification from a *professional engineer* that all public infrastructure works have been executed in compliance with this consent and with Council’s *Specification for Roadworks, Drainage and Miscellaneous Works* dated February 2012.

The certification must be supported by closed circuit television / video inspection provided on DVD of all stormwater drainage together with Works As Executed engineering plans and a survey report detailing all finished reduced levels.

Standard Condition: F9

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

G.1 **Electricity Substations – Dedication as road and/or easements for access**

If an electricity substation, is required on the site the owner must dedicate to the appropriate energy authority (to its satisfaction), free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established. 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 (footway or road pavement).

Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the *Principal Certifying Authority* prior to issue of the Construction Certificate detailing energy authority requirements.

The Accredited Certifier must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

Where an electricity substation is provided on the site adjoining the road boundary, the area within which the electricity substation is located must be dedicated as public road. Where access is required across the site to access an electricity substation an easement for access across the site from the public place must be created upon the linen plans burdening the subject site and benefiting the Crown in right of New South Wales and any Statutory Corporation requiring access to the electricity substation.

Standard Condition: G4
H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))

H.1 Consolidation of Allotments

Prior to the Occupation Certificate, a final Plan of Survey prepared and certified by a Registered Surveyor must be submitted and approved by the Accredited Certifier showing the consolidation of the 2 lots (LOTS: A and B DP: 386709). Should the applicant go ahead with the purchase of the road reserve, the road reserve is to also be consolidated into the one allotment with the two abovementioned lots.

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

H.2 Removal of Ancillary Works and Structures

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

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

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the Final Occupation Certificate.
Standard Condition: H12

H.3 Landscaping

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

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.
Standard Condition: H9

H.4 Road Works (including footpaths)

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

a) Stormwater pipes, pits and connections to public stormwater systems within the road;
b) Driveways and vehicular crossings within the road;
c) Removal of redundant driveways and vehicular crossings;
d) New footpaths within the road;
e) Relocation of existing power/light pole
f) relocation/provision of street signs
g) New or replacement street trees;
h) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.

i) New or reinstated kerb and guttering within the road; and

j) New or reinstated road surface pavement within the road.

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

Standard Condition: H13

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

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

a. Compliance with conditions of development consent relating to stormwater;

b. That the works have been constructed in accordance with the approved design;

c. Pipe invert levels and surface levels to Australian Height Datum;

d. Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

e. A positive covenant pursuant to Section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council’s standard format and the Instrument must be registered at the Land Titles Office.

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

Standard Condition: H20

H.6 Positive Covenant on Resident Parking

Owners and/or occupiers of the completed development will not be permitted to participate in Council’s Resident Parking Schemes (that is, obtain a Resident Parking Permit for a vehicle) as all parking is provided on site.

A positive covenant, pursuant to Section 88E of the Conveyancing Act, must be created on the property title advising future and present owners of the non-participation in the Resident Parking Scheme prior to purchasing the property.

This condition is imposed to limit the demand for kerbside parking in the vicinity of the premises and to control the generation of traffic in the surrounding street network.

The Instrument must be in accordance with Council’s standard format and include the above wording in the Term of the Restriction in Annexure “A”. The Instrument must be registered at the Land Property Information Office prior to the issuance of any Occupation Certificate.
H.7 Dilapidation Report for public infrastructure works

The Principal Contractor must submit a follow up dilapidation report, prepared by a professional engineer, on Council’s infrastructure within and near the development site to Council upon completion of the work.

The Final Occupation Certificate must not be issued until Council’s Civil Works Engineer is satisfied that the works have been satisfactorily completed and the PCA has been provided with correspondence from Council to this effect.

The dilapidation report must include:

a) Photographs showing any existing damage to the road pavement fronting the site,
b) Photographs showing any existing damage to the kerb and gutter fronting the site,
c) Photographs showing any existing damage to the footway including footpath pavement fronting the site,
d) Photographs showing any existing damage to retaining walls within the footway or road, and
e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
f) The full name and signature of the professional engineer.

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.

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure. If the required report is not submitted then Council will assume any damage to any infrastructure in the immediate vicinity of the site was caused by the principle contractor and owner carrying out work under this consent.

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

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

I.1 Garbage Collection

The garbage area must be maintained at all times to ensure that a breeding ground is not created for pests and must be capable of being easily and effectively cleaned.

All garbage containers must have tight fitting lids and be large enough or in sufficient numbers to contain all the waste produced by the business while awaiting the next removal from the premises.

Garbage collection is to occur within the basement level, not in the street.
This condition has been imposed to mitigate amenity impacts upon the neighbourhood.

Standard Condition: I16

I.2 Occupation and use of roof terraces

The roof terrace is to be used for passive use only and there is to be no speakers or amplified music.

This condition has been imposed to protect the amenity of neighbours and to maintain views across and over the roof terrace.

Note: Temporary structures that may adversely affect views across over the roof terrace must not be erected without Council approval

Standard Condition: II46

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

I.4 Outdoor lighting – Roof Terraces

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.

All lighting to be installed on the roof terrace will be recessed lights or will be surface wall/balustrade mounted lights at a maximum height of 600 mm above the finished floor level of the roof terrace.

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

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: I51

I.5 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.6 Noise from mechanical plant and equipment

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

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

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

Note: Words in this condition have the same meaning as in the:
ISBN 0 7313 2715 2, dated January 2000, and

Standard Condition: I59

I.7 Operation of Regulated Systems


Where there is any change in the regulated system the occupier must register the changes in the ‘regulated systems’ with Council pursuant to Clause 11 of the Public Health Regulation, 2012.

Water cooling system must be certified by an appropriately qualified person annually as being an effective process of disinfection under the range of operating conditions that could ordinarily be expected.
This condition has been imposed to ensure public health.


I.8 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)

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

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

I.9 Permit Parking Schemes

Owners and/or occupiers of the completed development will not be permitted to participate in Council’s Resident Permit Parking Schemes. The applicant/developer is to ensure that future owners and occupiers are made aware of this condition during marketing and sale of any room within the development.

This condition is imposed to limit the demand for kerbside parking in the vicinity of the premises and to control the generation of traffic in the surrounding street network.

I.10 Signage to indicate non participation in resident parking permit scheme

Signs reading ‘all owners, tenants and occupiers of this building are advised that they are not eligible to obtain an on-street resident parking permit from Council’ must be located in prominent places such as all directory boards or notice boards, where they can easily be observed and read by people entering the building. The signs must be erected prior to an Occupation Certificate being issued and must be maintained in good order at all times.

I.11 Home Travel Plan

A Home Travel Plan is to be prepared for all occupants and issued prior to their occupation. The plan is to provide up to date information of bus and train services and pedestrian access.

J. Miscellaneous Conditions

No conditions.

K. Advisings

K.1 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.2 **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:


**K.3 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.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.

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.
K.10 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.

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.


Standard Condition: K14

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 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.14 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.15 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.

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.

<table>
<thead>
<tr>
<th>For the Motion</th>
<th>Against the Motion</th>
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<tbody>
<tr>
<td>Councillor Bennett</td>
<td>Nil</td>
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<tr>
<td>Councillor Keulemans</td>
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<tr>
<td>Councillor Levenston</td>
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<td>Councillor Marano</td>
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There being no further business the meeting concluded at 9.10pm.

We certify that the pages numbered 1708 to 1934 inclusive are the Minutes of the Development Control Committee Meeting held on 15 June 2015 and confirmed by the Development Control Committee on 6 July 2015 as correct.

________________________ ________________________
Chairperson  S ecretary of Committee