

# Council Meeting

Monday 6 April 2009

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## Items Determined Under Delegated Authority by Council Committees

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

### Corporate & Works Committee Meeting held on Monday 30 March 2009

- D1 Confirmation of Minutes of Meeting held on 16 March 2009
- D2 1 Wentworth Street, Point Piper - Proposed Road Closure and Sale
- D3 48 Cranbrook Road, Bellevue Hill - Proposed Lease
- D4 18 Cranbrook Road, Bellevue Hill - Proposed Easement

### Development Control Committee Meeting held on Monday 30 March 2009

- D1 Confirmation of Minutes of Meeting held on 16 March 2009
- D2 DA212/2008 - 30 Alma Street, Paddington (aka White City) – Demolition of existing structures, remediation of site & construction of a multi purpose tennis & recreation facility – 17/4/2008 (See Item R2)
- D3 DA829/2008 – 2-8 Elizabeth Street, Paddington – Adaption & re-use of existing buildings & new infill buildings including car parking, amalgamation of 4 lots for commercial/retail use & remediation of the site – 16/12/2008
- D4 DA614/2008 – 37 Moncur Street, Woollahra – Alterations & additions to dwelling – 23/9/2008 -(See Item R3)
- D5 DA190/2007 Part 3 – 27 Spicer Street, Woollahra - Section 96 Application – Proposed modification change in roof material – 3/12/2008
- D6 DA777/2008 – 23 Victoria Street, Watsons Bay – Demolition of existing dwelling house, alterations & additions to existing ancillary structure located on the street frontage, new swimming pool, landscaping & siteworks – 28/11/2008
- D7 DA655/2007 Part 2 – 20 Roslyndale Avenue, Woollahra – Section 96 Application – Proposed modification existing terrace extended, new basement, new parapet wall, modified fenestration, revised entry ramp & stairs & new stormwater details – 12/9/2008
- D8 DA576/2004 Part 2 – 650-654 New South Head Road, Rose Bay – Section 96 Application - Proposed modification internal & external – 2/21/2008
- D9 DA307/2008 – 7 Northland Road, Bellevue Hill – Section 82A Review of Refusal – 22/9/2008
- D10 DA600/2008 – 20 Fitzwilliam Road, Vaucluse – Demolition of the existing dwelling & ancillary structures & the construction of a new dwelling house, swimming pool & landscaping works – 19/11/2008
- D11 DA542/2008 – 18 Wyuna Road, Point Piper – Alterations & additions to existing residence – 26/8/2008- (See Item R4)
- D12 DA262/2004 Part 2 – 409-411 New South Head Road, Double Bay – Section 96 Application – Proposed modification of Condition No. 2 requiring the payment of Section 94 Contribution – 9/10/2008
- D13 Register of Current Land and Environment Court Appeals for Development Applications

### Urban Planning Committee Meeting held on Monday 23 March 2009

- D1 Confirmation of Minutes of Meeting held on 9 March 2009

### Community & Environment Committee Meeting held on Monday 23 March 2009

- D1 Confirmation of Minutes of Meeting held on 9 March 2009
- D2 Woollahra Traffic Committee Minutes Extraordinary Meeting 17 March 2009
- D3 Yarranabbe Park Trees
- D4 Tree Management Policy



# Council Meeting

**Minutes of the Meeting of Woollahra Municipal Council  
held at the Council Chambers, Double Bay, on  
Monday 6 April 2009 at 8.07pm.**

Present: His Worship The Mayor, Councillor Andrew Petrie ex-officio  
Councillors Anthony Boskovitz  
Sean Carmichael  
Peter Cavanagh  
Lucienne Edelman  
Nicola Grieve  
Chris Howe  
Susan Jarnason  
Greg Medcraft  
Ian Plater  
Isabelle Shapiro  
David Shoebridge  
Susan Wynne  
Malcolm Young  
Toni Zeltzer

Staff: S Dunshea (Director – Corporate Services)  
A Coker (Director – Planning & Development)  
W Hatton (Director – Technical Services)  
G James (General Manager)  
K Walshe (Director – Community Services)  
L Windle (Manager – Governance)

Also in Attendance: Nil

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## Confirmation of Minutes

(Shapiro/Medcraft)

- 1/6 THAT the Minutes of the Council Meeting held on 23 March 2009 be taken as read and confirmed.

**Adopted**

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## Leave of Absence

(Boskovitz/Medcraft)

- 2/6 That leave of absence for all meetings of the Council and its Committees be granted to Councillor Susan Wynne for the period Monday 20 April 2009 to Friday 24 April 2009, inclusive.

**Adopted**

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## Apologies

Nil

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## Declarations of Interest

Councillor Chris Howe declared a non-significant, non-Pecuniary Interest in Item DCC R2 (30 Alma Street, Paddington) as his wife is a Partner of the law firm Mallesons Stephen Jaques and that firm has submitted late correspondence to Council on this matter. Councillor Howe advised that his wife works in the tax area and does not work in the property area or any other area of the firm relating to the advice and he does not believe he needs to excuse himself from the deliberations.

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## Petitions

**Petition No:** 1  
**From:** Residents of Windsor Street, Paddington  
**Table by Councillor:** Medcraft  
**File No:** 884.G 2009

The Petition was in terms, in part

*... we have all suffered from much inconvenience since early January as a result of the new gas pipeline being laid in our section of Windsor Street and the use of the park at the end of the cul de sac as a "base camp" for Jemena heavy equipment and excavation supplies.*

*... Jemena has advised that all they will be proposing to do is to "patch" the road and that they will not be resurfacing the entire street.*

*We request Woollahra Council to require Jemena to completely resurface the road for the entire cul de sac section of Windsor Road.*

**Motion moved by Councillor Medcraft**  
**Seconded by Councillor Shoebridge**

**3/6** That the petition lie on the table for fourteen (14) days, be referred to the appropriate Council officer for consideration and reported back to the appropriate Committee of Council.

**Adopted**

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## Corporate & Works Committee

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### Items with Recommendations from the Committee Meeting of Monday 30 March 2009 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** **Retaining Wall - Adelaide Parade, Woollahra, Adjacent to Cooper Park**  
**Author:** Greg Stewart - Project Manager Strategic Projects & Policy  
**File No:** 900.G  
**Reason for Report:** Council resolution calling for a report.

**Motion moved by Councillor Shoebridge  
Seconded by Councillor Medcraft**

- A. That it be noted that Adelaide Parade and its supporting retaining wall are located on land that is not owned by Council.
- B. That an inspection take place on site at 5.00pm Monday 30 March 2009 preceding the Corporate and Works Committee meeting, and that adjoining owners be notified.
- C. That Council take no action to acquire, or accept responsibility for the ongoing repair and maintenance of, Adelaide Parade and its supporting retaining wall (Lot 15 in DP 438838).
- D. That Council agree to arrange for the removal of the vegetation from the face of the retaining wall supporting Adelaide Parade, subject to Council staff being satisfied that such works will not expose Council to any ongoing responsibility for the repair and maintenance of Adelaide Parade, its retaining wall, metal railings and gate.
- E. That the estimated cost of the works to be undertaken by Council be advertised as a donation under section 356 of the Local Government Act.

**Amendment moved by Councillor Carmichael  
Seconded by Councillor Boskovitz**

That the recommendation from the Corporate and Works Committee be adopted.

**The Amendment was withdrawn  
The Motion was adopted**

**4/6 Resolved:**

- A. That it be noted that Adelaide Parade and its supporting retaining wall are located on land that is not owned by Council.
- B. That an inspection take place on site at 5.00pm Monday 30 March 2009 preceding the Corporate and Works Committee meeting, and that adjoining owners be notified.

- C. That Council take no action to acquire, or accept responsibility for the ongoing repair and maintenance of, Adelaide Parade and its supporting retaining wall (Lot 15 in DP 438838).
- D. That Council agree to arrange for the removal of the vegetation from the face of the retaining wall supporting Adelaide Parade, subject to Council staff being satisfied that such works will not expose Council to any ongoing responsibility for the repair and maintenance of Adelaide Parade, its retaining wall, metal railings and gate.
- E. That the estimated cost of the works to be undertaken by Council be advertised as a donation under section 356 of the Local Government Act.

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**Item No:** R2 Recommendation to Council  
**Subject:** Panel of Reviewers - Code of Conduct Matters  
**Author:** Les Windle - Manager Governance  
**File No:** 817.G  
**Reason for Report:** For Council to appoint members of the Panel of Reviewers for Code of Conduct matters

(Medcraft/Shoebridge)

**5/6 Resolved without debate:**

That Council appoint the SSROC Regional Panel of Reviewers for Code of Conduct Matters to draw upon on an as required basis for the panel members to act as a sole reviewer or be part of a conduct review committee for Council in accordance with the requirements of the Model Code of Conduct for Councils in New South Wales.

**Item No:** R3 Recommendation to Council  
**Subject:** **2009/2010 Draft Budget**  
**Author:** Don Johnston, Manager Finance  
**File No:** 331G 09/10  
**Reason for Report:** To present the 2009/2010 Draft Budget to the Committee

**Motion moved by Councillor Boskovitz  
Seconded by Councillor Shoebridge**

- A. That the report on the 2009/2010 Draft Budget be received and noted.
- B. That the 2009/2010 Draft Operating and Capital Budgets presented to the Committee as Annexures 2 and 3 be incorporated into the Draft Delivery Program and Operational Plan to be presented to the Strategic and Corporate Committee meeting proposed to be held on 5 May 2009.
- C. That further report(s) be presented to the Corporate & Works Committee should circumstances arise that have an impact on the proposed 2009/2010 Draft Budget.
- D. That a further report be presented to the Corporate & Works Committee following the determination of Council's Special Rate Variation application, recommending appropriate changes to the budget in the event the application is not approved in full.
- E. That Council note that the Committee will give further consideration to alternate funding sources for the Capital Works Program to the proposed borrowings recommended in the report.
- F. That a Budget Working Party be formed and meet prior to the Strategic and Corporate Committee Meeting proposed for the 5 May 2009 to look over the operational budget line by line in consultation with senior staff to help us prioritise what we believe to be our most essential services.

**Amendment moved by Councillor Medcraft**

That the recommendation from the Corporate and Works Committee be adopted.

**The Amendment lapsed for the want of a seconder  
The Motion was adopted**

**6/6 Resolved:**

- A. That the report on the 2009/2010 Draft Budget be received and noted.
- B. That the 2009/2010 Draft Operating and Capital Budgets presented to the Committee as Annexures 2 and 3 be incorporated into the Draft Delivery Program and Operational Plan to be presented to the Strategic and Corporate Committee meeting proposed to be held on 5 May 2009.
- C. That further report(s) be presented to the Corporate & Works Committee should circumstances arise that have an impact on the proposed 2009/2010 Draft Budget.



- F. That a further report be presented to the Corporate & Works Committee following the determination of Council's Special Rate Variation application, recommending appropriate changes to the budget in the event the application is not approved in full.
- G. That Council note that the Committee will give further consideration to alternate funding sources for the Capital Works Program to the proposed borrowings recommended in the report.
- F. That a Budget Working Party be formed and meet prior to the Strategic and Corporate Committee Meeting proposed for the 5 May 2009 to look over the operational budget line by line in consultation with senior staff to help us prioritise what we believe to be our most essential services.

**Note:** The Mayor appointed Councillors Boskovitz, Shoebridge, Medcraft, Cavanagh and Plater and any other interested Councillors to the Budget Working Party.

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## Development Control Committee

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### Items with Recommendations from the Committee Meeting of Monday 30 March 2009 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** 59-73 Cascade Street, Paddington – Construction of five storey building (mixed use) including rebuilding of existing smash repair at ground floor level, parking & storage at 1<sup>st</sup> floor level, five terrace style units at levels 3 to 5, access stairs on the public domain & the amalgamation of the torrens title & strata subdivision into 5 residential & 1 light industrial lot – 12/12/2007  
**Author:** Thomass Wong – Senior Assessment Officer  
**File No:** DA839/2007  
**Reason for Report:** In accordance with Council’s meeting procedures and policy this matter has been called to full Council by Councillor Howe.

**Note:** Late correspondence was tabled at the meeting from Patrick Robinson Council’s Manager Development Control, Mark Sheldon of Group GSA Pty Ltd, Kelly Mulqueen, Robyn Attuell of the Paddington Society, Janine Weir (2 pieces), Hugh Williamson of Williamsons Solicitors Pty Ltd, Trevor & Esther Hayter (2 pieces), Terry Coyne of Farrell Coyne Projects and Cecile Hunt.

**Motion moved by Councillor Howe  
Seconded by Councillor Zeltzer**

- A. That consideration of the matter be deferred for Council staff to assess the amended plans and the matter be referred back to the Development Control Committee to determine in accordance with the Committee’s delegations and safeguards.
- B. That staff determine prior to this matter being considered by the Development Control Committee whether or not the amended plans submitted by the applicant make amendments substantially enough to require this matter to be readvertised.
- C. That when the matter comes back before the Development Control Committee that those objectors who had not already been heard by the Committee be allowed to address the Committee.
- D. That further legal advice being obtained on the issues as to existing use rights raised in the correspondence of Henry Davis York of 18 January 2008

**Amendment moved by Councillor Wynne  
Seconded by Councillor Shoebridge**

That the original staff recommendation for refusal of the application be adopted.

**Foreshadowed amendment, if the refusal motion is lost, advised by Councillor Shoebridge**

That consideration of the matter be deferred for Council staff to assess the amended plans and the matter be referred back to the Development Control Committee to determine in accordance with the Committee's delegations and safeguards subject to:

- A. the acceptance of the plans be subject to the payment by the applicant to Council of a replacement fee for the development application,
- B. the amended plans be renotified to all adjoining residents and objectors,
- C. further legal advice being obtained on the issues as to existing use rights raised in the correspondence of Henry Davis York of 18 January 2008.

**The Amendment moved by Councillor Wynne and seconded by Councillor Shoebridge was put and lost****Amendment moved by Councillor Shoebridge  
Seconded by Councillor Wynne**

That consideration of the matter be deferred for Council staff to assess the amended plans and the matter be referred back to the Development Control Committee to determine in accordance with the Committee's delegations and safeguards subject to:

- A. the acceptance of the plans be subject to the payment by the applicant to Council of a replacement fee for the development application,
- B. the amended plans be renotified to all adjoining residents and objectors,
- C. further legal advice being obtained on the issues as to existing use rights raised in the correspondence of Henry Davis York of 18 January 2008.

**The Amendment was put and lost  
The Motion was adopted****7/6 Resolved:**

- A. That consideration of the matter be deferred for Council staff to assess the amended plans and the matter be referred back to the Development Control Committee to determine in accordance with the Committee's delegations and safeguards.
- B. That staff determine prior to this matter being considered by the Development Control Committee whether or not the amended plans submitted by the applicant make amendments substantially enough to require this matter to be readvertised.
- C. That when the matter comes back before the Development Control Committee that those objectors who had not already been heard by the Committee be allowed to address the Committee.
- D. That further legal advice being obtained on the issues as to existing use rights raised in the correspondence of Henry Davis York of 18 January 2008

**Item No:** R2 Recommendation to Council  
**Subject:** **30 Alma Street, Paddington (Aka White City) – Demolition of existing structures, remediation of site & construction of a multi purpose tennis & recreation facility – 17/4/2008**  
**Author:** George Fotis – Team Leader  
**File No:** DA212/2008  
**Reason for Report:** In accordance with Council’s meeting procedures and policy this matter has been called to full Council by Councillor Boskovitz

**Note:** Councillor Chris Howe declared a non-significant, non-Pecuniary Interest in this item as his wife is a Partner of the law firm Mallesons Stephen Jaques and that firm has submitted late correspondence to Council on this matter. Councillor Howe advised that his wife works in the tax area and does not work in the property area or any other area of the firm relating to the advice and he does not believe he needs to excuse himself from the deliberations.

**Note:** Late correspondence was tabled at the meeting from Sylvia Hrovatin of Walker Corporation Pty Ltd and Mallesons Stephens Jaques.

**Motion moved by Councillor Howe  
Seconded by Councillor Edelman**

- A. That consideration of the matter be deferred and Council obtain legal advice on whether the amended plans can be considered under this development application or whether the submission of a new development application is required.
- B. That if the opinion in the legal advice is to the effect that the amended application can be considered by Council, then:
  - (a) it be subject to payment by the applicant to the Council of a replacement fee for a development application,
  - (b) it be renotified to all adjoining residents and objectors.
- C. That if the opinion in the legal advice be that it cannot be considered by Council that the application be refused by staff in accordance with the recommendation from the Development Control Committee meeting of 30 March 2009 submitted to the Council Meeting on 6 April 2009.

**Amendment moved by Councillor Carmichael  
Seconded by Councillor Boskovitz**

- A. That consideration of the matter be deferred and Council obtain legal advice on whether the amended plans can be considered under this development application or whether the submission of a new development application is required.
- B. That if the opinion in the legal advice is to the effect that the amended application can be considered by Council, then:
  - a. it be subject to payment by the applicant to the Council of a replacement fee for a development application,
  - b. it be renotified to all adjoining residents and objectors.

- C. That if the opinion in the legal advice be that it cannot be considered by Council that the matter be referred back to Council for determination.

**The Amendment was put and lost**

**The Motion was adopted**

**8/6 Resolved:**

- A. That consideration of the matter be deferred and Council obtain legal advice on whether the amended plans can be considered under this development application or whether the submission of a new development application is required.
- B. That if the opinion in the legal advice is to the effect that the amended application can be considered by Council, then:
- a. it be subject to payment by the applicant to the Council of a replacement fee for a development application,
  - b. it be renotified to all adjoining residents and objectors.
- C. That if the opinion in the legal advice be that it cannot be considered by Council that the application be refused by staff in accordance with the recommendation from the Development Control Committee meeting of 30 March 2009 submitted to the Council Meeting on 6 April 2009.
-

**Item No:** R3 Recommendation to Council  
**Subject:** 37 Moncur Street, Woollahra – Alterations & Additions to dwelling – 23/9/2008  
**Author:** Belinda Thomas – Assessment Officer  
**File No:** DA614/2008  
**Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to a substantive change of the Committee’s recommendation (approval) to the Site Inspection recommendation (deferral).

(Zeltzer/Boskovitz)

9/6 **Resolved: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979**

THAT the Council, as the consent authority, grant development consent to Development Application No. 614/2008 for alterations and additions to dwelling on land at 37 Moncur Street Woollahra, subject to the following conditions:

#### **A. General Conditions**

##### **A.1 Conditions**

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

Standard Condition: A1

##### **A.2 Definitions**

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

*Applicant* means the applicant for this Consent.

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

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

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

*Council* means Woollahra Municipal Council

*Court* means the Land and Environment Court

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

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

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

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

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

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

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

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

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

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

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

*Site* means the land being developed subject to this consent.

*WLEP 1995* means *Woollahra Local Environmental Plan 1995*

*Work* for the purposes of this consent means:

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

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

Standard Condition: A2

### A.3 Approved Plans and supporting documents

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

Reference	Description	Author/Drawn	Date(s)
Sheet 1 of 2 Sheet 2 of 2	Architectural Plans	Richard Altavilla & Associates	1/12/08 10.11.08
Ref: 020508 Plan 1 of 2	Stormwater Concept Plan shown on the lower floor plan	Richard Altavilla & Assoc	1/12/08

**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 Prescribed Conditions

Prescribed conditions in force under the *Act* and *Regulation* must be complied with.

**Note:** It is the responsibility of those acting with the benefit of this consent to comply with all prescribed conditions under the *Act* and the *Regulation*. Free access can be obtained to all NSW legislation at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

Standard Condition: A30

### A.5 Ancillary Aspect of the Development (s80A(2) of the Act)

The owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's “Specification for Roadworks, Drainage and Miscellaneous Works” dated January 2003 unless expressly provided otherwise by these conditions at the *owner's* expense.

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

Standard Condition: A8

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



## B.1 Construction Certificate required prior to any demolition

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

**Note:** See *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.  
Standard Condition: B1

## C. Conditions which must be satisfied prior to the issue of any construction certificate

### C.1 Modification of details of the development (s80A(1)(g) of the Act)

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

- a. To ensure that an adequate level of visual privacy is maintained to the neighbouring properties the glazing to the first floor windows to the west elevation of the garage structure shall be translucent and fixed to a height of 1.7m above the finished first floor level
- b. That western edge of the loft above the garage shall have its set back reduced by 0.534m to be inline with the garage. This would maximise the private open space available to the rear courtyard.
- c. That the garage door access to be widened to a minimum of 3.6m
- d. That 8% of the site area (12.5m<sup>2</sup>) shall contain deep soil landscaping as defined in Council's Woollahra Heritage Conservation Area Development Control Plan 2003 to ensure the provision of permeable and semi-permeable areas of open space to assist with stormwater management.
- e. The wall between the existing living and dining rooms must be retained, although the door may be widened to an approved width.
- f. No textured finishes are to be used on the exterior.
- g. The existing front façade, roof and verandah are to remain unchanged.
- h. The first floor level rear setback is to be increased by 3.3m and is to extend no further than the existing privacy screen.
- i. The southern boundary wall is to be maintained at its existing height.

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

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

**Note:** Clause 145 of the *Regulation* prohibits the issue of any *Construction Certificate* that is inconsistent with this consent.  
Standard Condition: C4

## C.2 Payment of Security, Levies and Fees (S80A(6) & S94 of the Act, Section 608 of the Local Government Act 1993)

The person(s) with the benefit of this consent must pay the following long service levy, security, development levy, and fees prior to the issue of any *construction certificate*, *subdivision certificate* or *occupation certificate*, as will apply.

The *certifying authority* must not issue any *Part 4A Certificate* until provided with the original receipt(s) for the payment of all of the following levy, security, contributions, and fees. Specifically

- a. prior to the issue of a *construction certificate*, where a construction certificate is required; or
- b. prior to the issue of a *subdivision certificate*, where only a subdivision certificate is required; or
- c. prior to the issue of an *occupation certificate* in any other instance.

Description	Amount	Indexed	Council Fee Code
<b>LONG SERVICE LEVY</b> under Building and Construction Industry Long Service Payments Act 1986			
<b>Long Service Levy</b> Use Calculator: <a href="http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm">http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm</a>	Contact LSL Corporation or use their online calculator	No	
<b>SECURITY</b> under section 80A(6) of the Environmental Planning and Assessment Act 1979			
<b>Property Damage Security Deposit -</b> Making good any damage caused to any property of the <i>Council</i> as a consequence of the doing of anything to which the consent relates.	\$11,200,	No	T115
<b>DEVELOPMENT LEVY</b> under Woollahra Section 94A Development Contributions Plan 2005 This plan may be inspected at Woollahra Council or downloaded from our website <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> .			
Development Levy (S94A)	\$4600+ Index Amount	Yes, quarterly	T96
<b>INSPECTION FEES</b> under section 608 of the Local Government Act 1993			
Public Road and Footpath Infrastructure Inspection Fee	\$375	No	T45
Security Administration Fee	\$175	No	T16
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	\$16350 <b>Plus any relevant indexed amounts and long service levy</b>		

### Building & Construction Industry Long Service Payment

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

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

**How must the payments be made?**

Payments must be made by:

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

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

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

**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 2005 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 the 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 periodic payment of section 94A levy under the Woollahra Section 94A Development Contributions Plan 2005**

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:

- a. the reasons given;
- b. whether any prejudice will be caused to the community deriving benefit from the public facilities;
- c. whether any prejudice will be caused to the efficacy and operation of this plan; and
- d. 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:

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

Any deferred or outstanding component 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 Professional Engineering Details

The *Construction Certificate* plans and specifications, required by clause 139 of the Regulation, must include detailed *professional engineering* plans and 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 specifications must be submitted to the *Certifying Authority* with the application for any *Construction Certificate*.

Standard Condition: C36

### C.4 BASIX commitments

The *applicant* must submit to the *Certifying Authority* *BASIX Certificate* No. A40897 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.5 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 and approved by *Council* under the *Roads Act 1993*, before the issue of any *Construction Certificate*.

Specific works include:

- Full width vehicular crossings having a width of 4.00m in accordance with Council's standard drawing RF2.

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 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](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:** *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.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 structural is able to support the additional loads proposed.

Standard Condition: C35

## C.7 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 by Richard Altavilla & Assoc Ref: 020508 Plan 1 of 2 dated 04.08.08 other than amended by this and other conditions;
- b. the discharge of stormwater, by direct connection, to Dorhauer Lane;
- c. compliance the objectives and performance requirements of the BCA;
- d. any rainwater tank required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*, and
- e. general compliance with the Council's draft Development Control Plan Stormwater Drainage Management (draft version 1, public exhibition copy dated 23 August 2004)

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,
- Location of On-Site Detention,
- All invert levels reduced to Australian Height Datum (AHD),
- Location and dimensions of all drainage pits,
- Point and method of connection to Councils drainage infrastructure, and
- Overland flow paths over impervious areas.

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

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.8 Bicycle, Car and Commercial Parking Details**

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

- the widening of the garage door to a minimum on 3.6m. The shower and WC are to be located clear of this access so there is no conflict.

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

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

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

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

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

This condition does not apply:

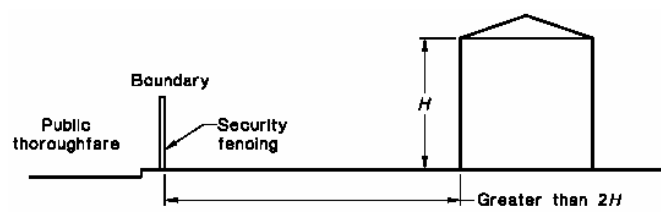
- a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4),
- or
- b) to the erection of a temporary building.

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

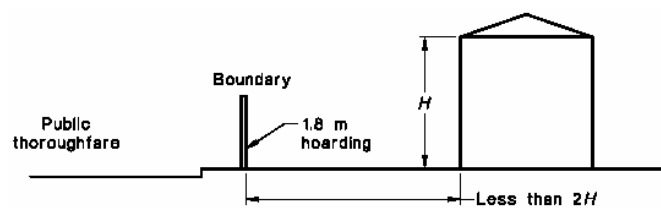
**Note:** This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the Home Building Act 1989. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.  
Standard Condition: D1

## D.2 Security Fencing, Hoarding and Overhead Protection

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



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

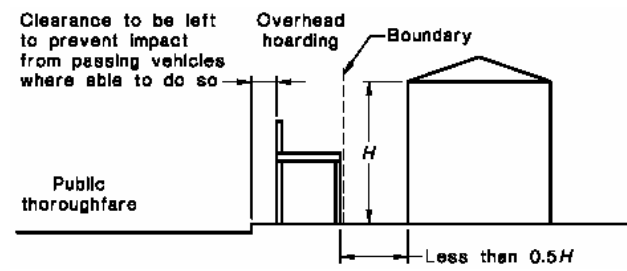


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either —

- 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; 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
- c) 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/ohheadprotstructs.htm>.

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

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

### D.3 Site Signs

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

“Erection of signs

- 1) For the purposes of section 80A (11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- 2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and



- c) stating that unauthorised entry to the work site is prohibited.
- 3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- 4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- 5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws."

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

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

#### D.4 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
- a) 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 down loaded free of charge from [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au).

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

**Note:** Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”  
**Warning**, irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

Standard Condition: D14

## D.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
- (b1) 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

- (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
- a) 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
  - b) notified the principal certifying authority of any such appointment, and
  - c) 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
  - d) given at least 2 days' notice to the council of the person's intention to commence the erection of the building.

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

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

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

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

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

#### **D.7 Notification of Home Building Act 1989 requirements**

- 1) 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.
- 2) 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:
  - a) in the case of work for which a *principal contractor* is required to be appointed:
    - (i) the name and licence number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that *Act*,
  - b) in the case of work to be done by an owner-builder:
    - (i) the name of the owner-builder, and
    - (ii) if the owner-builder is required to hold an owner-builder permit under that *Act*, the number of the owner-builder permit.
- 3) 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.

- 4) 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.8 Construction Management Plan

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

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

- a. describe the anticipated impact of the construction works on:**
  - local traffic routes
  - pedestrian circulation adjacent to the building site
  - and on-street parking in the local area, and;
- b. describe the means proposed to:**
  - manage construction works to minimise such impacts,
  - provide for the standing of vehicles during construction,
  - provide for the movement of trucks to and from the site, and deliveries to the site, and;
- c. show the location of:**
  - any site sheds and any anticipated use of cranes and concrete pumps,
  - any areas of Council property on which it is proposed to install a Works Zone (Construction Zone),
  - structures to be erected such as hoardings, scaffolding or shoring,
  - any excavation.
- d. describe the excavation impact on the area including**
  - Number and types of trucks to be used
  - Time frame
  - Streets to be used
  - Routes to be taken
  - Directions of travel
  - Truck storage areas
  - It is recommended that vehicle routes be shared
  - Excavation is to only be carried out outside peak and school hours between 9.30am to 2.30pm week days
  - The CMP is to include both demolition and excavation works.
- e. show the location** of all Tree Protection (Exclusion) Zones as required within the conditions of this development consent.

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

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

## **D.9 Work (Construction) Zone – Approval & Implementation**

A work zone is required for this development. The *principal contractor* or *owner* must apply for, obtained approval for, pay all fees for and implemented the required work 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 work zone. All Work Zone signs must have been erected by Council to permit enforcement of the work zone by Rangers and Police before commencement of any work. Signs are not erected until full payment of work zone fees.

**Note:** The *principal contractor* or *owner* must allow not less than four 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 work zone is at the discretion of Council's Rangers and the NSW Police Service. The principal contractor must report any breach of the work zone to either Council or the NSW Police Service.  
Standard Condition: D10

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

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

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

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

This condition does not apply:

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

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

Standard Condition: E1

## E.2 Compliance with Australian Standard for Demolition

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

Standard Condition: E2

## E.3 Hours of Work –Amenity of the neighbourhood

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

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

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

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

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

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

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

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

## 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 Maintenance of Vehicular and Pedestrian Safety and Access

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

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

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

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

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

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

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

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

Part C Management of Waste:

“1 For fee or reward, transport waste over or under a public place

2 Place waste in a public place

3 Place a waste storage container in a public place.”

Part E Public roads:

“1 Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway

2 Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.”

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

Standard Condition: E7

## E.6 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;

**Note 1:** See [http://www.epa.nsw.gov.au/small\\_business/builders.htm](http://www.epa.nsw.gov.au/small_business/builders.htm) for additional information.  
Standard Condition: E11

## E.7 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.8 Erosion and Sediment Controls – Maintenance

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

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

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



**Note 1:** 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 2:** 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.9 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*, and

**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.10 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.11 Dust Mitigation

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

This generally requires:

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

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

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

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

### E.12 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 January 2003.

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

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

**Note:** A copy of Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" can be downloaded free of charge from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)  
Standard Condition: E24

### **E.13 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

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

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

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

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

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

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

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

- a. Certification from the supervising professional engineer that the requirement of the Geotechnical / Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b. All flood protection measures.
- c. All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1 – "Off-Street car parking."
- d. All stormwater drainage systems.
- e. All mechanical ventilation systems.
- f. All hydraulic systems.
- g. All structural work.
- h. All acoustic attenuation work.
- i. All waterproofing.
- j. Such further matters as the *Principal Certifying Authority* may require.

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

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

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

## **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

### **H.2 Fulfillment of BASIX commitments – Clause 154B of the Regulation**

All *BASIX* commitments must be effected in accordance with the *BASIX Certificate* No. A40897.

**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.3 Road Works (including footpaths)**

The following works must be completed to the satisfaction of Council, in compliance with Council’s “*Specification for Roadworks, Drainage and Miscellaneous Works*” dated January 2003 unless expressly provided otherwise by these conditions at the *principal contractor’s* or *owner’s* expense:

- stormwater pipes, pits and connections to public stormwater systems within the *road*;
- driveways and vehicular crossings within the *road*;
- removal of redundant driveways and vehicular crossings;

- new footpaths within the *road*;
- relocation of existing power/light pole
- relocation/provision of street signs
- new or replacement street trees;
- 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.
- new or reinstated kerb and guttering within the *road*; and
- 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](http://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. A40897.

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

## **J. Miscellaneous Conditions**

No relevant conditions.

## **K. Advisings**

### **K.1 Appeal**

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

**Belinda Thomas, Assessment Officer** on (02) 9391 7085

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.2 Builders Licences and Owner Builders Permits

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

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

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

Standard Condition: K5

## K.3 Building Standards - Guide to Standards and Tolerances

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

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

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

The Guide can be down loaded from:

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

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

Standard Condition: K6

## K.4 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.5 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:

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

**Note:** The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259. Under the Occupational Health and Safety Regulation 2001, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work. Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. You should make yourself aware of the requirements by visiting [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) or one of Workcover NSW's offices for further advice.  
Standard Advising: K8

## K.6 Release of Security

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

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

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

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

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

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

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

**For the Recommendation****Against the Recommendation**

Councillor Boskovitz  
Councillor Edelman  
Councillor Wynne  
Councillor Medcraft  
Councillor Cavanagh  
Councillor Jarnason  
Councillor Howe  
Councillor Plater  
Councillor Zeltzer  
Councillor Shapiro  
Councillor Carmichael  
Councillor Grieve  
Councillor Young  
Councillor Shoebridge  
Councillor Petrie

Nil

*15/0*

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**Item No:** R4 Recommendation to Council  
**Subject:** **18 Wyuna Road, Point Piper – Alterations & additions to existing residence – 26/8/2008**  
**Author:** Sarah Chambers – Senior Assessment Officer  
**File No:** DA542/2008  
**Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to a substantive change of the Committee’s recommendation (refusal) to the Officer’s recommendation (approval).

**Note:** Late correspondence was tabled at the meeting from Tony Moody, Allyson Wolff and Ben Haynes and Michael Suttor Architects.

**Motion moved by Councillor Howe**  
**Seconded by Councillor Boskovitz**

That the staff recommendation for approval of the application be adopted.

**Amendment moved by Councillor Zeltzer**  
**Seconded by Councillor Shapiro**

THAT the Council, refuse development consent to Development Application No. 542/2008 for alteration and addition to an existing residence on land at 18 Wyuna Road Point Piper, for the following reasons:

1. The proposal fails to provide equitable view sharing in accordance with the Land & Environment court planning principle of Tenacity Consulting v Warringah (2004) NSW LEC 140 and in this regard a more skilful design would resolve adverse view corridor impacts.
2. The bulk scale and design of the proposal will have a negative visual relationship with the adjoining heritage items in the vicinity of the site. In this regard the proposal does not satisfy clause 27 of WLEP 1995.
3. The proposed bulk and scale of the dwelling-house would have an adverse impact on views. In this regard, the non-compliances with C4.5.7.2 (building Height - storeys) and C4.5.4 (side setbacks) will result in additional view loss from adjoining properties which is considered to be unacceptable.

**The Amendment was put and carried**  
**The Amendment became the Motion**  
**The Motion was adopted**

**10/6 Resolved: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979**

THAT the Council, refuse development consent to Development Application No. 542/2008 for alteration and addition to an existing residence on land at 18 Wyuna Road Point Piper, for the following reasons:

1. The proposal fails to provide equitable view sharing in accordance with the Land & Environment court planning principle of *Tenacity Consulting v Warringah* (2004) NSW LEC 140 and in this regard a more skilful design would resolve adverse view corridor impacts.
2. The bulk scale and design of the proposal will have a negative visual relationship with the adjoining heritage items in the vicinity of the site. In this regard the proposal does not satisfy clause 27 of WLEP 1995.
3. The proposed bulk and scale of the dwelling-house would have an adverse impact on views. In this regard, the non-compliances with C4.5.7.2 (building Height - storeys) and C4.5.4 (side setbacks) will result in additional view loss from adjoining properties which is considered to be unacceptable.

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

***For the Recommendation***

Councillor Edelman  
Councillor Wynne  
Councillor Medcraft  
Councillor Cavanagh  
Councillor Jarnason  
Councillor Zeltzer  
Councillor Shapiro  
Councillor Carmichael  
Councillor Grieve  
Councillor Young  
Councillor Shoebridge

***Against the Recommendation***

Councillor Boskovitz  
Councillor Howe  
Councillor Plater  
Councillor Petrie

***11/4***

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## Urban Planning Committee

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### Items with Recommendations from the Committee Meeting of Monday 23 March 2009 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** **Overview of the Strategic Planning Working Party Meetings on Woollahra's New Principal LEP**  
**Author:** Jacquelyne Jeffery - Team Leader Strategic Planning  
**File No:** 1067.G WP  
**Reason for Report:** To provide an overview of the Strategic Planning Working Party meetings held on the preparation of Woollahra's new Principal LEP.

(Zeltzer/Shoebridge)

**11/6 Resolved without debate:**

- A. That the overview of the four Strategic Planning Working Party meetings, held between 27 November 2008 and 26 February 2009, be received and noted.
  - B. That progress on the preparation of Woollahra's new Principal LEP and its development through the Strategic Planning Working Party be received and noted.
  - C. That it be noted that in relation to the comments concerning latent housing capacity that some Councillors have expressed concern about any discounting of any existing latent capacity; and that some Councillors have expressed issues concerning the proposed zoning of New South Head Road, Edgecliff.
  - D. That Council consider ways of raising the public awareness of the potential loss of all our Special Use school zones to residential zones via compulsory rezoning by the State Government which is not supported by Council.
  - E. That it be noted that the report to the Urban Planning Committee and future reports are intended to provide an overview of meetings held by the Strategic Planning Working Party and that the meetings are intended for consultation purposes rather than for decision making purposes.
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**Item No:** R2 Recommendation to Council  
**Subject:** **William Street Paddington- Expansion of Permissible Land Uses**  
**Author:** Anne White – Senior Strategic Planner  
**File No:** 1064.G  
**Reason for Report:** To inform Council of advice received from the Department of Planning. To obtain Council's decision to informally exhibit the three options for William Street, in response to the advice provided by the Department of Planning.

(Zeltzer/Shoebridge)

**12/6 Resolved without debate:**

- A. That the advice from the Department of Planning in a letter dated 09 March 2009 be noted.
  - B. That the three planning options for the William Street precinct as set out in the Council's decision on 17 November 2008 be informally exhibited for public consultation in order to establish the Council's preferred option.
  - C. That the consultation process include notification letters being sent to all properties within an approximate range of 200 metres of the William Street properties.
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## Community & Environment Committee

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### Items with Recommendations from the Committee Meeting of Monday 23 March 2009 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** Review of Community and Cultural Grants Policy and Guidelines  
**Author:** Manager Community Development  
**File No:** 30.G  
**Reason for Report:** Review of policy and guidelines for the allocation of community grants.

(Cavanagh/Plater)

**13/6 Resolved without debate**

- A. That Council adopt the changes to the Community and Cultural Grants Program as outlined in the proposal and the amendments to the policy and guidelines.
  - B. That Council hold an annual Community and Cultural Grants Program information session for prospective applicants and a presentation event for successful applicants.
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## **Suspension of Standing Orders to consider a Rescission Motion**

**(Carmichael)**

- 14/6** That Standing Orders be suspended to allow consideration of a Notice of Motion of Rescission in relation to Development Control Committee Item R2 – 30 Alma Street, Paddington (White City).

### **Adopted**

As the next Council Meeting is three weeks away and the delay in considering the Rescission Motion until the next Council Meeting will prevent Council staff from obtaining the legal advice or undertaking any other action on the matter until that time, the Mayor ruled Urgency and permitted the Suspension of Standing Orders and consideration of the Notice of Motion of Rescission.

**The following Notice of Motion of Rescission was moved by Councillors Carmichael, Cavanagh and Medcraft.**

That the motion carried at the Council Meeting held on 6 April 2009 being Item Number R2 of the Development Control Committee dealing with 30 Alma Street, Paddington (Aka White City) be rescinded.

**The Motion was put and lost**

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## Notice of Motion

**Item No:** 1  
**From:** Councillors Young, Medcraft & Plater  
**Date:** 1 April 2009  
**File No:** 900.G

**(Young/Plater)**

**15/6** That Council take the following action in relation to the Ashington development at 33 Cross Street, Double Bay having regard to the imminent lodgement with the Director-General of the environmental assessment for the project:

- (a) request the Minister to extend the period for public viewing and submissions under s75H(3) to a minimum of 60 days in view of the size and complexity of the project;
- (b) in view of the approximate halving of on site parking (from that existing) as publicly foreshadowed by the developer, the Council retain consultant traffic and parking engineers to assess the environmental assessment once lodged with the Minister;
- (c) that Council provide the Department ( to the extent it has not already done so) with a list of all property owners in the Municipality for the purposes of public notification and consultation under s75H;
- (d) that Council upon lodgement of the environmental assessment notify in writing every resident in the Double Bay, Cooper and Bellevue Hill Wards of the availability for inspection of such environmental assessment and encourage them to write to the Minister with their views and any objections within the consultation period.

**Adopted unanimously**

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**Item No:** 2  
**From:** Councillor Cavanagh  
**Date:** 2 April 2009  
**File No:** 900.G

**Note:** Councillor Cavanagh requested that consideration of this Notice of Motion be deferred.

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**Item No:** 3  
**From:** Councillor Zeltzer  
**Date:** 2 April 2009  
**File No:** 900.G

(Zeltzer/Medcraft)

**16/6** Community Buses

That council investigate the provision of 2-3 community buses which will run daily and which operate on a continuous loop through the adjoining suburbs in the Woollahra Municipality to the hub at Double Bay.

One model proposed for the provision of these community buses is that used by Manly Council in the provision of their three *HOP SKIP* and *JUMP* buses that provide a free and convenient local service for residents of the municipality. The provision of such a service in Woollahra will do much to enhance our move towards both social and environmental sustainability and community building.

Size of vehicle

21-24 passengers

Fuel

Gas, hybrids or biodiesel

Routes

4 Routes all intersecting at Double Bay as in three leaf clover.  
Suggested itinerary

- Route through Darling Point and into Double Bay then up to Bondi Junction and back along Ocean Street to Edgecliff station and returning to Darling Point.
- Route from Double Bay into Point Piper and then onto Rose Bay and back through Bellevue Hill to Bondi Junction. From Bondi Junction along Edgecliff Road to Edgecliff station and back to Double Bay
- Route from Rose Bay to Watson's Bay and back through Rose Bay North to Bondi Junction and then looping back to Rose Bay through Double Bay.
- Route through Paddington/Woollahra to Edgecliff Station and then to Double Bay and return.

Cost

Service to be provided free of cost to residents

All cost incurred in provision of buses, maintenance and running costs to be achieved through sponsorship and naming rights for these community buses.

No cost to be incurred by council. (Manly is using sponsorship by NRMA and local businesses)

The report to include consideration that if sponsorship does not meet the full running costs incurred in the provision of the buses, that a small charge be applied or a gold coin donation invited.



Addendum

Currently Council owns 2 Mitsubishi Rosas, which can accommodate 24 passengers or 21 passengers and 1 wheel chair respectively. These could initially provide two out of the three vehicles proposed in the model above.

**Adopted unanimously**

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**Item No:** 4  
**From:** Councillor Zeltzer  
**Date:** 2 April 2009  
**File No:** 900.G

(Zeltzer/Grieve)

**17/6** Annual Local Drama Festival in Blackburn Gardens

That Council investigate the feasibility of an annual drama festival in Blackburn Gardens.

This annual event to run under the same guidelines of the Poet's Picnic and to take place at a time that does not conflict with the Poet's Picnic.

Suggested Timing

In spring when weather is less inclement.

Performers and performances

Local schools, local amateur theatre groups, known local acting talent and other local interested parties.

Venue

Blackburn Gardens is a natural amphitheatre with the harbour as a backdrop

Suggested Themes

Shakespeare in the Park  
Australian Playwrights  
One Act Plays

Rationale

To provide greater diversity in cultural offering by council and to enhance a sense of community through a broader appreciation of the arts.

**Adopted**

## Questions Without Notice Tabled Answers

**Item No:** 11  
**Subject:** Questions Without Notice  
**Author:** Gary James, General Manager  
**File No:** 467.G/Q01  
**Reason for Report:** To provide a response to Questions without Notice from Council Meeting of 23 March 2009 and for Councillors to ask Questions without Notice in accordance with Council's Code of Meeting Practice.

**Motion moved by Councillor Boskovitz**  
**Seconded by Councillor Shoebridge**

**18/6** That the responses to previous Questions without Notice be noted.

**Adopted**

**The following questions were asked:-**

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**Councillor Boskovitz asking:**

As you may know the RTA recently resurfaced Old South Head Road. I have a number of questions for you.

1. Why did they stop fixing the road just before Captain Pipers Road on the way to Vaucluse Cemetery? That part of the RTA road past Captain Pipers Road is just as poor as the part they fixed.
2. Are you aware that immediately after the RTA finished the road Sydney Water has decided to come in and dig up the road and do some works? Does this seem as silly to you as it does to me.
3. Why did Sydney Water not dig up the road before the RTA came and fixed it?
4. Also, what are they actually doing?

**Director Technical Services in response:**

On notice

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**Councillor Boskovitz asking:**

What notification has occurred for Item Y3 on tomorrows Traffic Committee Agenda regarding Village Lower Road, Vaucluse?

Substantial community consultation took place to create a traffic calming plan but the concept in tomorrows report is different to that. Could you please communicate the fact that this is coming to the street convenors who may wish to attend on behalf of the residents?

**Director Technical Services in response:**

I believe that may have been done but I will check.

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**Councillor Boskovitz asking:**

Can you write to the Premier Nathan Rees and express the dissatisfaction with his administration in regards to the power going out in much of our Municipality?

This is an absolute appalling state of affairs and I also wish you to write to him again ascertaining whether he can guarantee once again like he did last Monday that this one in a million occurrence will never happen again while he is in power.

**Mayor in response:**

I am happy to write to him on behalf of the residents as it has caused great problems and will send a copy to all Councillors.

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**Councillor Edelman asking:**

A number of residents in the vicinity of Johnsons Lookout on New South Head Road near Captain Pipers Road, Vaucluse have contacted me in relation to:

1. the condition of the park,
2. the height of the vegetation and trees that are blocking the lookout views

and requested that the park area be cleaned, landscaped and the trees pruned.

**Director Technical Services in response:**

On notice

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**Councillor Wynne asking:**

Would it be possible to have a moments silence at our next full Council Meeting, 27 April 2008 in respect of ANZAC Day which is on the Saturday prior?

**Mayor in response:**

I am more than happy to do that.

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**Councillor Jarnason asking:**

Could the compliance staff investigate the Real Estate sign that has been erected in Trumper Park, have it removed and the offending company be given a terse order or fine to deter further offences of this nature?

**Director Planning and Development in response:**

On notice

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**Councillor Howe asking:**

What is Council's intentions regarding the planter box on the roundabout on Edgecliff Road and Bathurst Street?

There has been no plants in this planter for some time, the planter is very unsightly and a poor reflection on our Municipality. Recent mulch placed in the planter will not assist the growth on the one item in the planter, namely a large rock.

**Director Technical Services in response:**

The intention is to replace the planting with stone set paving and that is why the planting has recently been removed. The mulch has only been there as a temporary measure and it will be replaced with stone sets.

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**Councillor Plater asking:**

Would the Director of Technical Services please advise if the Council is responsible for emptying the cigarette bin in Goldman Lane, Double Bay and if Council is responsible could this be undertaken immediately and continued on a regular basis?

**Director Technical Services in response:**

The cigarette bins are carried out by a contractor and we will notify the contractor about that location.

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**Councillor Plater asking:**

Would the Director Technical Services advise when the parking meters in Double Bay, especially on Cross Street and Transvaal Avenue, will be programmed to not accept payment for periods when no parking is allowed?

**Director Technical Services in response:**

On notice

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**Councillor Plater asking:**

Would the Director Technical Services advise when the incorrect street parking signs on Ocean Street marked as “Edgecliff 2”, when they are in the “Edgecliff 1” zone, are to be replaced with the correct signs?

**Director Technical Services in response:**

On notice

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**Councillor Zeltzer asking:**

How many residents are using the free availability of mulch?

Has this free access to mulch been the reason why we have not joined other Councils in SSROC, the old IMROC Councils namely Leichhardt, Canada Bay, Ashfield, Auburn and Burwood in recycling contracts?

These Councils have taken up the option of a contract for 10 years to sell green waste including food wastes – with the ability to make some revenue.

**Director Technical Services in response:**

There is no market for mulch at the moment, there is more than sufficient supply.

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**Councillor Carmichael asking:**

What is the status of the proposed upgrade of lower Bellevue Road to be reviewed and potentially executed at a future Traffic Committee?

**Director Technical Services in response:**

On notice

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**Councillor Grieve asking:**

When there is a S96 does the staff assess the additional cost of works with regard to additional S94A Contributions?

If not, could they make it part of the standard S96 assessment process?

**Director Planning and Development in response:**

If the work which is contemplated in the S96 application adds value to the work, then there should be an adjustment to the S94A levy. I am happy to review our internal procedures to make sure that that is clear and unambiguous.

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**Councillor Young asking:**

When will the drop off/pick up zone be implemented in front of the Peter Pan Kindergarten in Union Street, Paddington?

**Director Technical Services in response:**

On notice

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**Councillor Shoebridge asking:**

Can a sign post please be placed in the centre of the 5 Ways roundabout showing the 5 streets?

**Director Technical Services in response:**

No, it would be a traffic hazard.

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**Councillor Shoebridge asking:**

Can consideration be given to allowing for up to 150 words being included in the Council agenda as background in support of Notices of Motion to allow for greater clarity during debate in motions without complicating the decision making or the formal record of Council?

**Mayor in response:**

Yes

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**Councillor Mayor Councillor Petrie asking:**

What is the time line for the application in respect to the above the Berger building picture theatre?

**Director Planning and Development in response:**

I do not have a specific time line for that so I will take it On notice so that I can give that to you.

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There being no further business the meeting concluded at 10.30pm.

*We certify that the pages numbered 1403 to 1457 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 6 April 2009 and confirmed by Council at the ordinary Meeting of Council on 27 April 2009 as correct.*

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**General Manager**

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**Mayor**