

Ordinary Council Meeting Minutes



Minutes: *Ordinary Council Meeting*

Date: *Monday 27 February 2017*

Time: *8.00 pm.*

Ordinary Council Meeting

Monday 27 February 2017

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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.

Community & Environment Committee held on Monday 13 February 2017

- D1 Confirmation of Minutes of Meeting held on 12 December 2016
- D2 Woollahra Local Traffic Committee Minutes - 7 February 2017
- D3 Draft Redleaf Plan of Management and Masterplan for Public Exhibition
- D4 Library Report 1 July 2016 - 31 December 2016

Urban Planning Committee held on Monday 13 February 2017

- D1 Confirmation of Minutes of Meeting held on 28 November 2016
- D2 Oxford Street Working Party meeting 29/11/2016 (SC2820)
- D3 Delivery Program 2013 to 2017 and Operational Plan 2016/17 (DPOP) Quarterly Progress Report December 2016 against Goal 4 - Well planned neighbourhoods and Goal 9 - Community focused economic development

Development Control Committee held on Monday 20 February 2017

- D1 Confirmation of Minutes of Meeting held on 6 February 2017
- D3 DA195/2016/1 - 5 Manning Road, Double Bay (aka "Treetops")
- D4 DA530/2016/1 - 8/15 Ian Street Rose Bay
- D5 DA488/2016/1 - 8B/21 Thornton Street, Darling Point
- D6 DA251/2015/1 39 Harris Street Paddington
- D7 DA539/2015/1 - 7 Cliff Street, Watsons Bay
- D8 DA110/2016/1 52 Hopewell Street Paddington
- D9 Register of Current Land and Environment Court Matters and Register for Court Proceedings for Building Control Environmental Control and Health Control
- D10 Register of SEPP 1 Objections and Clause 4.6 Varitations

Corporate & Works Committee held on Monday 20 February 2017

- D1 Confirmation of Minutes of Meeting held on 6 February 2017
- D2 Disclosure of Interest Returns by Councillors and Designated Persons
- D3 Monthly Financial Report - January 2017
- D5 Delivery Program 2013 to 2017 and Operational Plan 2016/17 Quarterly Progress Report December 2016 against Goal 10 - Working together and Goal 11 - A Well Managed Council (FY230)
- D6 Capital Works Program - Quarterly Progress Report December 2016 (FY230-02)



Ordinary Council Meeting

**Minutes of the Meeting of Woollahra Municipal Council
held at the Council Chambers, 536 New South Head Road, Double Bay, on
27 February 2017 at 8.00 pm.**

Present: Her Worship the Deputy Mayor, Councillor Susan Wynne (Chair)

Councillors: Peter Cavanagh
Luise Elsing
James Keulemans
Greg Levenston
Katherine O'Regan
Andrew Petrie
Matthew Robertson

Staff:	Craig Bennett	(Manager – Governance & Council Support)
	Allan Coker	(Director – Planning & Development)
	Stephen Dunshea	(Director – Corporate Services)
	Gary James	(General Manager)
	Tom O'Hanlon	(Director – Technical Services)
	Kylie Walshe	(Director – Community Services)

Also in Attendance: Nil

Confirmation of Minutes

(Robertson/O'Regan)

14/17 Resolved:

That the Minutes of the Ordinary Council Meeting held on 13 February 2017 be taken as read and confirmed.

Leave of Absence and Apologies

(Robertson/Levenston)

15/17 Resolved:

That Leave of Absence for all meetings of the Council and its Committees be granted to Councillor Deborah Thomas for the period from Monday 27 February 2017 to Tuesday 28 February 2017 inclusive.

(Robertson/Levenston)

16/17 Resolved:

That Leave of Absence for all meetings of the Council and its Committees be granted to Councillor Deborah Thomas for the period from 5 March 2017 to 22 March 2017 inclusive.

Apologies were received and accepted from Councillors Anthony Marano, Ted Bennett and The Mayor Toni Zeltzer and leave of absence granted.

Declarations of Interest

Councillor Elsing declared a Significant, Non-Pecuniary Interest in Item DCC Item R1 (7-9 Ocean Street, Woollahra), as she is a member of the Sydney Central Planning Panel (SCPP) and will be dealing with the matter at the SCPP. Councillor Elsing vacated the meeting and did not participate in the debate or vote on this matter.

Councillor Elsing declared a Significant, Non-Pecuniary Interest in UP Item R1 (Planning Proposal for 636 & 638-646 New South Head Road, Rose Bay), as she is a member of the Sydney Central Planning Panel (SCPP) and may be dealing with the matter at the SCPP. Councillor Elsing vacated meeting and did not participate in the debate or vote on this matter.

Late Correspondence

Note: Leave of Absence, Corporate & Works Committee R2 (Proposed Closure & Sale of Road Reserve), Development Control Committee R1 (7-9 Ocean Street, Woollahra) and R2 (50 Bundarra Road, Bellevue Hill).

Petitions Tabled

Nil.

Mayoral Minute

Item No:**Subject:****VALE PROFESSOR BRUCE CONOLLY, AM****Author:**

Toni Zeltzer, Mayor of Woollahra

File No:

17/24487

Reason for Report:

To extend our sympathy to the family of the late Professor Bruce Conolly, AM and to express our gratitude for his generous contribution to medicine and shared commitment with his wife, Dr Joyce Conolly to helping boost healthcare in developing nations

(Robertson/Elsing)**17/17 Resolved Unanimously:**

That I write on behalf of our Councillors, staff and community to express our condolences to the Conolly family on the death of Professor Bruce Conolly, AM and to give thanks for his contribution to medicine and helping others in need.

I was sad to hear of the death of Professor Bruce Conolly, AM last week after a long illness. My thoughts go to his widow, Dr Joyce Conolly, and their children, John, Christine and Bruce. Professor Conolly shared his broad medical knowledge in hand surgery through his academic work at a range of leading universities and also through his work in hospitals here and overseas. He was a well- respected author and an award-winning surgeon and humanitarian.

In 2014, both Professor Bruce Conolly and Dr Joyce Conolly received a Woollahra Council Citizenship Award for *Contribution to the International Community*. Since 1971, the Conolly's have shared their medical knowledge with doctors, nurses, therapists and volunteers in developing countries. Together they treated patients with injuries to their hands and upper limbs. Through their organisation the *Myanmar Australia Conolly Foundation for Health*, the Conolly's selfless commitment to improving health and wellbeing has helped many people in need in disadvantaged locations.

Conclusion:

Professor Conolly has made an outstanding contribution only to medicine and to global citizenship. He will be well remembered by his patients, his students, colleagues, family and friends for his generosity, his professionalism and his humanity. Our sympathy goes to Joyce, John, Christine and Bruce, and their extended family members. May they find comfort in the memories they shared with a great man, a highly-respected community leader and an exemplary citizen. A service to celebrate the life of Professor Bruce Conolly, AM, will be held at St James Church, Sydney on Monday 6 March 2017.



Cr Toni Zeltzer
Mayor of Woollahra

Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Monday 20 February 2017 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **2016/17 BUDGET REVIEW FOR THE QUARTER ENDED
31 DECEMBER 2016**
Author: Trang Banfield, Team Leader Financial Operations
Approvers: Don Johnston, Chief Financial Officer
Stephen Dunshea, Director Corporate Services
File No: 17/10259
Reason for Report: To report on the review of the 2016/17 Budget for the quarter ended
31 December 2016.

(Cavanagh/O'Regan)

18/17 Resolved without debate:

- A. THAT the report on the Budget Review for the quarter ended 31 December 2016 be received and noted.
 - B. THAT Council note the statement from Council's Responsible Accounting Officer that Council's projected financial position at 30 June 2017, based on the forecasts outlined in this report, will remain sound.
 - C. THAT the recommended variations to the 2016/17 budget outlined in the report be adopted.
-

Item No: R2 Recommendation to Council
Subject: **CLOSING AND SALE OF ROAD RESERVE - DARLING POINT ROAD, DARLING POINT (SC3680)**
Author: Anthony Sheedy, Senior Property Officer
Approvers: Zubin Marolia, Manager - Property & Projects
 Tom O'Hanlon, Director - Technical Services
File No: 17/18624
Reason for Report: To consider the formalisation of encroachments on Darling Point Road, adjoining 86 Darling Point Road, Darling Point.
Note: Late correspondence was tabled by Barbara Rooke & Charlotte Feldman.

Motion moved by Councillor Petrie
Seconded by Councillor Cavanagh

That consideration of the matter be deferred pending a valuation being obtained for the subject parcel and that a further report be prepared and referred back to a future Corporate and Works Committee Meeting.

Amendment moved by Councillor O'Regan
Seconded by Councillor Keulemans

- A. Council not proceed with the proposal to sell a section of road reserve adjoining 86 Darling Point Road, Darling Point on the basis that proceeding with the sale is not in the public interest.
- B. That action be taken have the existing encroachment removed.

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

(O'Regan/Keulemans)

19/17 Resolved:

- A. That Council not proceed with the proposal to sell a section of road reserve adjoining 86 Darling Point Road, Darling Point on the basis that proceeding with the sale is not in the public interest.
- B. That action be taken have the existing encroachment removed.

Note: A division was called by Councillor Petrie.

For the Motion
 Councillor Elsing
 Councillor Keulemans
 Councillor Levenston
 Councillor O'Regan
 Councillor Robertson
 Councillor Wynne

Against the Motion
 Councillor Cavanagh
 Councillor Petrie

6/2

Development Control Committee

Items with Recommendations from the Committee Meeting of Monday 20 February 2017 Submitted to the Council for Determination

ITEM No.	R1 Recommendation to Council
FILE No.	DA307/2015/5
ADDRESS	7-9 Ocean Street, Woollahra
PROPOSAL	Internal and external modifications to the Emanuel Synagogue including changes to the design of the child care centre and sanctuary, relocation of the plant room, retention of the crossover to Woods Avenue, changes to fenestration and gates and new glazed roof over the lift and 'Kiddush Court'
REASONS FOR REPORT	In accordance with Council's meeting procedures and policy this matter is referred to full Council to allow Council to make a submission to the Sydney Central Planning Panel (SCPP).

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

Note: Late correspondence was tabled by Council's Manager Development Control, Nick Economou & Ed Lippmann.

Motion moved by Councillor Keulemans Seconded by Councillor Wynne

That Council advises the Sydney Central Planning Panel (SCPP), that it endorses the staff recommendation to modify the development consent to Development Application No 307/2015/1 for the demolition of the Neuweg Chapel, administration building and child care centre to the south of Emanuel Synagogue and the construction of a new basement carpark for 14 vehicles; a new two storey building to the north of the Emanuel Synagogue, a new two storey building to the south of the Emanuel Synagogue containing a 60 space childcare centre and a sanctuary for approximately 300 people with art gallery on land at 7-9 Ocean Street, Woollahra, subject to the modification of conditions A4, B6, C1, D11, E25, E26 and E27 (these conditions endorse the removal of Tree 33) in the recommended officer's report and the inclusion of the following two conditions:

- (i) C.1 (bb) The two trees removed, being Trees 33 and 35, are replaced with seven new mature native trees in 100 litre pots (Brown Pine's, Lilli Pilli's and Banksia's) similarly along the southern boundary in accordance with the submitted landscape plan).
- (ii) C.1(cc) In addition to these seven new native trees above, that five new trees are to be planted along the western boundary to the Ocean Street residential flat buildings and another nine trees within the pre-School outdoor play area in accordance with the landscape plan.

**Amendment moved by Councillor Robertson
Seconded by Councillor O'Regan**

- A. That Council advises the Sydney Central Planning Panel (SCPP), that it endorses the staff recommendation to modify the development consent to Development Application No 307/2015/1 for the demolition of the Neuweg Chapel, administration building and child care centre to the south of Emanuel Synagogue and the construction of a new basement carpark for 14 vehicles; a new two storey building to the north of the Emanuel Synagogue, a new two storey building to the south of the Emanuel Synagogue containing a 60 space childcare centre and a sanctuary for approximately 300 people with art gallery on land at 7-9 Ocean Street, Woollahra, subject to the conditions recommended in the officer's report (**Annexure 1**), and the inclusion of an additional condition requiring the planting of one (1), advanced Brown Pine tree (minimum pot size of 300 litres at planting) adjacent to the rear southern boundary.
- B. That Council advises the Sydney Central Planning Panel to explore the option of the relocation / reconfiguration of the plant room to partially within the approved built form to enable the retention of Tree 35 (Brown Pine).

**The Amendment was put and lost.
The Motion was put and carried.**

(Keulemans/Wynne)

20/17 Resolved:

That Council advises the Sydney Central Planning Panel (SCPP), that it endorses the staff recommendation to modify the development consent to Development Application No 307/2015/1 for the demolition of the Neuweg Chapel, administration building and child care centre to the south of Emanuel Synagogue and the construction of a new basement carpark for 14 vehicles; a new two storey building to the north of the Emanuel Synagogue, a new two storey building to the south of the Emanuel Synagogue containing a 60 space childcare centre and a sanctuary for approximately 300 people with art gallery on land at 7-9 Ocean Street, Woollahra, subject to the modification of conditions A4, B6, C1, D11, E25, E26 and E27 (these conditions endorse the removal of tree 33) in the recommended officer's report and the inclusion of the following two conditions:

- C.1 (bb) The two trees removed, being Trees 33 and 35, are replaced with seven new mature native trees in 100 litre pots (Brown Pine's, Lilli Pilli's and Banksia's) similarly along the southern boundary in accordance with the submitted landscape plan).
- C.1(cc) In addition to these seven new native trees above, that five new trees are to be planted along the western boundary to the Ocean Street residential flat buildings and another nine trees within the pre-School outdoor play area in accordance with the landscape plan.

Note: The Officer's Report contains the following Recommendations.

Pursuant to Section 96 of the *Environmental Planning and Assessment Act 1979*

THAT the Sydney Central Planning Panel, as the consent authority, modify the development consent to Development Application No. 307/2015/1 for the demolition of the Neuweg Chapel, administration building and child care centre to the south of Emanuel Synagogue and the construction of a new basement carpark for 14 vehicles; a new two storey building to the north of the Emanuel Synagogue, a new two storey building to the south of the Emanuel Synagogue containing a 60 space childcare centre and a sanctuary for approximately 300 people with art gallery on land at 7-9 Ocean Street, Woollahra, subject to the conditions recommended in the officer's report.

Additional Conditions

A.2(a) Approved Amended (s96) Plans and supporting documents

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

Reference	Description	Author/Drawn	Date(s)
A101, Rev D A102, Rev D A103, Rev D A104, Rev D A150, Rev D A151, Rev D A160, Rev D	Architectural Plans	Lippmann Partnership	28/09/2016
A860	Typical Fence and Gate Detail	Lippmann Partnership	A860, Rev E
215 169, v6.0	Acoustic Planning Report	PKA Acoustic Consulting	10/11/2016
L-02, Rev C	Planting Plan	SPACE Landscape Designs	30/11/2016

Note: These plans and supporting documentation may be subject to conditions modifying the development imposed under section 80A(1)(g) of the *Act* (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)
Standard Condition: A6 (Autotext AA6)

F.9 Acoustic Treatment to the Gallery & Sanctuary (Internal & External)

The Internal and External acoustic treatment controls for the Gallery & Sanctuary, as detailed in the Acoustic Planning Report prepared by PKA Acoustic Consulting titled '*Acoustic Planning Report No 5: Emanuel Synagogue, Project/File No. 216 157 R01 v6-0 dated 10 November 2016*' must be fully incorporated in the building design.

Amended Conditions

A.4 Tree Preservation and Approved Landscaping Works

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

- a) Trees are to be retained in accordance with approved Tree Removal and Retention Plan T12-11284 and the following:

Ref No	Species	Location	Dimension	Tree Value
2	<i>Flindersia australis</i> Crow's Ash	Front – Ocean Street frontage	12 x 6 metres	\$2000
21	<i>Cedrus atlantica</i> Atlantic Cedar	Front of Temple Emanuel adjacent to ramp	14 x 15 metres	N/A
24	<i>Robinia pseudoacacia</i> Robinia	Rear – north eastern corner	12 x 9 metres	
25			10 x 10 metres	
26			12 x 13 metres	
28			10 x 9 metres	
32	<i>Ficus macrophylla</i> Moreton Bay Fig	Rear – Adjacent to Woods Avenue entry	20 x 28 metres	
	DELETE			
	DELETE			

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

- b) Trees are to be removed in accordance with approved Tree Removal and Retention Plan T12-11284.
Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.
- c) With the exception of the Moreton Bay fig (tree 32) and the row of Robinas (Trees 24-28), trees are to be pruned in accordance with the approved Tree Protection Plan, prepared by Earthscape Horticultural Services, dated November 2012 and *Australian Standard Pruning of Amenity Trees* (AS 4373) and *Workcover NSW Code of Practice Amenity Tree Industry*, to the minimum extent necessary to provide clearance to the new development.
- d) No pruning of the Moreton Bay fig tree is permitted as part of this development consent.

B.6 Establishment of Tree Protection Zones

To limit the potential for damage to trees to be retained, Tree Protection Zones are to be established around all trees to be retained on site. The Tree Protection Zones are to comply with the following requirements;

- a) Tree Protection Zone areas are to be established in accordance with the recommended Tree Protection Plan and Specifications, prepared by Earthscape Horticultural Services, dated November 2012 and as follows:

Council Ref No	Species	Location	Radius from Trunk (Metres)
2	<i>Flindersia australis</i> Crow's Ash	Ocean Street frontage – Council verge south	2m
21	<i>Cedrus atlantica</i> Atlantic Cedar	Front of Temple Emanuel adjacent to ramp	4m
24	<i>Robinia pseudoacacia</i> Robinia	Rear – north eastern corner	2m
25			
26			
28			
32	<i>Ficus macrophylla</i> Moreton Bay Fig	Rear – Adjacent to Woods Avenue entry	6m

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

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

- b) Tree Protection Zones are to be fenced with a 1.8 metre high chainmesh or weldmesh fence to minimise disturbance to existing ground conditions. The area within the fence must be mulched, to a depth of 75mm, irrigated and maintained for the duration of the construction works.
- c) Trunk protection, to a maximum height permitted by the first branches, is to be installed around the trunks of the trees listed in the table below;

Ref No	Species	Location
2	<i>Flindersia australis</i> Crow’s Ash	Ocean Street frontage – Council verge south
21	<i>Cedrus atlantica</i> Atlantic Cedar	Front of Temple Emanuel adjacent to ramp
24	<i>Robinia pseudoacacia</i> Robinia	Rear – north eastern corner
25		
26		
28		
32	<i>Ficus macrophylla</i> Moreton Bay Fig	Rear – Adjacent to Woods Avenue entry

A padding material eg. Hessian or thick carpet underlay, is to be wrapt around the trunk first. Harwood planks, 50x100mm and to the maximum possible length, are to be placed over the padding and around the trunk of the tree at 150mm centres. These planks are to be secured in place by 8 gauge wire at 300mm spacing.

- d) A sign must be erected on each side of the fence indicating the existence of a Tree Protection Zone and providing the contact details of the site Arborist.
- e) Existing soil levels must be maintained within Tree Protection Zones. Where excavation is undertaken adjacent such an area, the edge of the excavation must be stabilised, until such time as permanent measures are installed (eg. retaining wall etc) to prevent erosion within the Tree Protection Zone.
- f) Sediment control measures are to be installed around all Tree Protection Zones to protect the existing soil levels.
- g) The storage of materials, stockpiling, siting of works sheds, preparation of mixes, cleaning of tools or equipment is not permitted within Tree Protection Zones.

Site personnel must be made aware of all Tree Protection requirements, measures and any actions that constitute a breach of the Conditions of Development Consent with regard to tree protection on site during their site induction.

Standard Condition: B5

B.7 Arborists Documentation and Compliance Checklist

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

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

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

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

Stage of arboricultural inspection	Compliance documentation and photos shall be included
Installation of all tree protection fencing	Compliance with tree protection measures - Ensure that all recommended protections of Tree 32 and 33 are in place
Inspection of irrigation set out	Appropriate distribution of irrigation water
Prior to pouring of slab	Condition of roots and soil
Prior to the issue of a Final Occupation Certificate	Supervise the dismantling of tree protection measures

Inspections and compliance documentation shall be made by an arborist with AQF Level 5 qualifications. Additional site visits shall be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.

C.1 Modification of details of the development (Section 80A(1)(g) of the Act)

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

- a) **DELETED**
- b) The setback of both levels the Sanctuary building at the north of the Temple Emanuel from the eastern boundary with 14 Waimea Avenue is to be set so that only minor pruning of the adjoining tree canopy is required. Such pruning is to be determined on the advice of an appropriately qualified arborist
- c) (deleted)
- d) As part of Stage 2 works the stain glass windows from all elevations of the Neuweg Synagogue must be preserved prior to demolition of the building and installed in the Small Sanctuary and Library to the north of the Temple Emanuel.
- e) Notwithstanding (d) above, any remaining windows to the western elevation of the first floor of the Sanctuary building to the south of the Temple Emanuel are to be fixed and obscure
- f) The height of the fence to the Ocean Street frontage is to be reduced to a maximum of 1.8m. The fencing along the northern and southern side boundaries, as measured 10m from the front boundary, is to adopt the form, style, materials and height of the front fence, as conditioned
- g) A 1.8m high noise/acoustic barrier is to be affixed to the inside of the eastern, southern and western sides of the child care centre outdoor play area boundary fencing
- h) Notwithstanding (f) and (g) above and with the exception of fencing adjoining properties in Woods Avenue and Wallis Street, side fencing is to be limited to a maximum height of 2.1m or is not to exceed the height of existing boundary fencing on the adjoining properties, whichever is higher. Fencing to common boundaries with properties in Woods Avenue and Wallis Street is limited to a maximum height of 1.8m
- i) The play equipment at the base of the Moreton Bay fig tree (Tree 32) to the Woods Avenue entrance is to be relocated to be outside the Tree Protection Zone of the tree (ie 15m from the base of the tree)
- j) Reference to pruning of Trees 24-28 and 32 is to be removed from all documentation. Pruning of these trees is prohibited
- k) The driveway to the basement is to be widened to 6.0m to allow two way car flow
- l) The redundant crossover to Ocean Street are to be removed
- m) (deleted)

- n) Modifications to the Site Waste Minimisation and Management Plan are to be made in the following manner:
 - i) The establishment of a waste storage space, including provision for recycling and compost, in the vicinity of 6 Woods Avenue for the use of the child care centre and collection in Woods Avenue
 - ii) The establishment of a separate waste storage area, including provision for recycling, for use for the remainder of the development with access to Ocean Street
 - iii) The provision of a compost bin for use within the child care centre
 - iv) The deletion of any reference to a bin store to the west of the Sanctuary building to the south of the Temple Emanuel as noted on landscape plan number 110
- o) (deleted)
- p) The deck area between the driveway and the Temple Emanuel is to be setback 1.5m from the northern side boundary and comprise a privacy screen to its northern edge to a height of 1.5m
- q) The elevated first floor walkway projecting east the of the eastern elevation of the Sanctuary building to the north of the Temple Emanuel is to be deleted in its entirety and a privacy screen is to be established to the eastern edge of the balcony
- r) (deleted)
- s) The plant rooms are to be fully enclosed with block work and the ventilation path air intake and discharge requires to be attenuated with silencers in accordance with Table 17 of the approved acoustic report
- t) All doors to the Sanctuary building to the south of the Temple Emanuel are to comprise self-closing doors
- u) The glazing to the Sanctuary building to the south of the Temple Emanuel is to comprise 12.38mm laminated glass. With respect to (d) above, the stain glass windows are to be appropriately treated to ensure compliance with the relevant levels in the approved acoustic report
- v) The undercroft to the child care centre play area to the east of the classrooms is to be acoustically treated with the same material as specified in (g) above
- w) The 49kL and 10kL rainwater tanks are to be nominated on the architectural and landscape plans
- x) The wire and cyclone fencing to the Kilminster Lane frontage is to be removed
- y) Reference to R1 in the acoustic report is to correctly nominate 1 Ocean Street as the applicable property
- z) The staff break out area detailed on the landscape plan is to be specified on the architectural plans
- aa) An outdoor storage shed for storing play equipment associated with the child care centre is to be established outside of the defined outdoor play area.
- bb) The two trees removed, being Trees 33 and 35, are replaced with seven new mature native trees in 100 litre pots (Brown Pine's, Lilli Pilli's and Banksia's) similarly along the southern boundary in accordance with the submitted landscape plan).
- cc) In addition to these seven new native trees above, that five new trees are to be planted along the western boundary to the Ocean Street residential flat buildings and another nine trees within the pre-School outdoor play area in accordance with the landscape plan.
- dd) The driveway crossover to Woods Avenue must be deleted from all approved plans.

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

D.11 Permissible work within Tree Protection Zones

In accordance with British Standard BS5837, one incursion no greater than 20% of a trees calculated Tree Protection Zone is considered allowable provided the tree is a healthy and vigorous specimen. Upon completion of approved works within the Tree Protection Zone, the specified Tree Protection Zone fencing must end either side of the allowable incursion. The table below provides a radius distance from the centre of the trunk of existing trees defining the limit of the Tree Protection Zone.

a) Permissible Work within Tree Protection Zones

Council Ref No	Species	Location	Tree Protection Zone (radius)	Approved works within incursion
24	<i>Robinia</i>	Rear – north eastern corner	5.8m	Excavation for retaining wall to west of tree
25	<i>pseudoacacia</i>		6.0m	
26	<i>Robinia</i>		7.2m	
28			5.3m	

b) Where excavation is undertaken within a specified Tree Protection Zone, the edge of the excavation must be stabilised, until such time as permanent measures are installed (eg. retaining wall etc) to prevent erosion within the Tree Protection Zone.

c) To prevent damage to roots and compaction within the Tree Protection Zone of specified trees, excavation must be hand dug. Small hand tools only are to be utilised, mattocks and similar digging tools are not be used within these areas. No root with a diameter equal to or in excess of 50mm is to be cut unless approved, in writing, by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 4 or recognised equivalent).

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

Beyond this radius, mechanical excavation is permitted, when root pruning by hand along the perimeter line of such works is completed.

E.25 Level changes in the vicinity of trees

No level changes shall occur within the specified radius from the trunks of the following tree. The project arborist shall document compliance with the above condition.

Ref No.	Species	Radius from Trunk
32	<i>Ficus macrophylla</i> (Moreton Bay Fig)	5 metres

E.26 Hand excavation within tree root zones

To prevent damage to roots and compaction within the root zone, excavation undertaken within the specified radius from the trunks of the following trees must be hand dug. Small hand tools only are to be utilised, mattocks and similar digging tools are not to be used within these areas. No root with a diameter equal to or in excess of 50mm is to be cut unless approved, in writing, by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 4 or recognised equivalent).

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

Any exposed surface roots must be covered to prevent drying out and watered. Materials used to minimise surface roots drying out include leaf litter mulch or a geotextile fabric.

Beyond this radius, mechanical excavation is permitted, when root pruning by hand along the perimeter line of such works is completed.

Ref No	Species	Location	Radius from Trunk
21	<i>Cedrus atlantica</i> Atlantic Cedar	Front of Temple Emanuel adjacent to ramp	8.3 metres
24	<i>Robinia pseudoacacia</i> Robinia	Rear – north eastern corner	5.8 metres
25			6.0 metres
26			7.2 metres
28			5.3 metres

E.27 Footings in the vicinity of trees

Footings for any structure constructed within the specified radius from the trunks of the following trees, is to be constructed using an isolated pier and beam construction method. Excavations for installation of piers is to be located so that no tree root with a diameter equal to or in excess of 50mm is to be severed. The smallest possible area is to be excavated which allows construction of the pier. The beam is to be placed a minimum of 100mm above ground level and is to be designed to bridge all tree roots with a diameter equal to or in excess of 50mm.

Ref No	Species	Location	Radius from Trunk
21	<i>Cedrus atlantica</i> Atlantic Cedar	Front of Temple Emanuel adjacent to ramp	8.3 metres
24	<i>Robinia pseudoacacia</i> Robinia	Rear – north eastern corner	5.8 metres
25			6.0 metres
26			7.2 metres
28			5.3 metres

DELETED CONDITIONS

Nil

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

For the Motion

Councillor Cavanagh
Councillor Keulemans
Councillor Levenston
Councillor Petrie
Councillor Wynne

Against the Motion

Councillor O'Regan
Councillor Robertson

5/2

ITEM No.	R2 Recommendation to Council
FILE No.	DA602/2015/1
ADDRESS	50 Bundarra Road Bellevue Hill
PROPOSAL	Alterations and additions to the existing dwelling and widening of the existing concrete driveway
REASON FOR REPORT	In accordance with Council's meeting procedures and policy this matter has been called to full Council by Councillor Andrew Petrie for the following reason: The correct Privacy Issue was not considered by the Site Inspection Committee on 8 February 2017.

Note: Late correspondence was tabled by Pamella Regan-Fox, Yun Park & Isabelle & Harold Shapiro.

**Motion moved by Councillor Petrie
Seconded by Councillor O'Regan**

That the Staff recommendation to DCC with the addition of Condition C.1(e) be adopted, which is as follows:

C.1 (e) The northern and southern edges of the second floor rear terrace must contain fixed translucent glass privacy screens to a height of 1.5m above finished floor level.

**Amendment moved by Councillor Elsing
Seconded by Councillor Robertson**

That the Staff recommendation to DCC with the deletion of Condition C.1(c) be adopted, which is as follows:

C.1 (c) The northern and southern edges of the second floor level terrace fronting Bundarra Road must contain fixed translucent glass privacy screens to a height of 1.5m above finished floor level. The potted plants adjacent to the northern and southern edges may be removed however the plants adjacent the eastern edge must be retained.

**The Amendment was put and lost.
The Motion was put and carried.**

(Petrie/O'Regan)

21/17 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. 602/2015/1 for alterations and additions to the existing dwelling and widening of the existing concrete driveway on land at 50 Bundarra Road Bellevue Hill, 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.

A.2 Definitions

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

Applicant means the applicant for this Consent.

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

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

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

Council means Woollahra Municipal Council

Court means the Land and Environment Court

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

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

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

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

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

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

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

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

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

Road has the same meaning 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*

WLEP 2014 means *Woollahra Local Environmental Plan 2014*

Work for the purposes of this consent means:

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

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

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)
DA940: 02R, 05R & 06R; & 04Ra	Architectural Plans	Gutnik Design Group	22.08.2016; 28.12.2016
A235676	BASIX Certificate	NSW Department of Planning and Infrastructure	23.11.2015
Attachment 1	Site Waste Minimisation and Management Plan	Gutnik Design Group	27.11.2015

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

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

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

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

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

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.

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

C.1 Modification of details of the development (Section 80A(1)(g) of the Act)

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

- a) Windows Nos.2, 3 and 4 as noted on the architectural drawings listed in Condition A.3 of this consent must have a minimum sill height of 1.5m or be fitted with fixed and translucent glazing with a minimum height of 1.5m above the finished floor level.
- b) Windows Nos. 8 & 9 as noted on the architectural drawings must have translucent fixed glazing to a minimum height of 1.5m above the finished floor level.
- c) The northern and southern edges of the second floor level terrace fronting Bundarra Road must contain fixed translucent glass privacy screens to a height of 1.5m above finished floor level. The potted plants adjacent to the northern and southern edges may be removed however the plants adjacent the eastern edge must be retained.
- d) building must be retained and be protected during the course of construction works. Additionally, building materials must not be stored within 3metres of their trunks.
- e) The northern and southern edges of the second floor rear terrace must contain fixed translucent glass privacy screens to a height of 1.5m above finished floor level.

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

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

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

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

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

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986			
Long Service Levy www.lspc.nsw.gov.au	Contact LSL Corporation or use online calculator	No	
SECURITY under section 80A(6) of the Environmental Planning and Assessment Act 1979			
Property Damage Security Deposit -making good any damage caused to any property of the <i>Council</i>	\$7,217.00.00	No	T115
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au .			
Development Levy (Section 94A)	\$225.00 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under Section 608 of the Local Government Act 1993			
Security Administration Fee	\$180.00	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$7,622.00 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

The Long Service Levy under Section 34 of the *Building and Construction Industry Long Service Payment Act*, 1986, must be paid and proof of payment provided to the *Certifying Authority* prior to the issue of any *Construction Certificate*. The Levy can be paid directly to the Long Services Payments Corporation or to Council. Further information can be obtained from the Long Service Payments Corporation's website <http://www.lspc.nsw.gov.au/> or the Long Service Payments Corporation on 13 14 41.

How must the payments be made?

Payments must be made by:

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

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

- The guarantee is by an Australian bank for the amount of the total outstanding contribution;
- The bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable];
- The bank agrees to pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent;
- The bank guarantee is lodged with the Council prior to the issue of the construction certificate; and
- The bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

How will the section 94A levy be indexed?

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

Do you need HELP indexing the levy?

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

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

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

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

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

- The guarantee is by an Australian bank for the amount of the total outstanding contribution;
- The bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable];
- The bank agrees to pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent;
- The bank guarantee is lodged with the Council prior to the issue of the construction certificate; and
- The bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

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

C.3 BASIX commitments

The *applicant* must submit to the *Certifying Authority* BASIX Certificate No.A235676 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"

C.4 Structural Adequacy of Existing Supporting Structures

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

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

C.5 Professional Engineering Details

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

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

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

C.6 Stormwater discharge to existing Stormwater Drainage System

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

- a) The location of the existing *Stormwater Drainage System* including all pipes, inspection openings, surface drains, pits and their discharge location,
- b) The state of repair of the existing *Stormwater Drainage System*,
- c) Any remedial works required to upgrade the existing *Stormwater Drainage System* to comply with the BCA,
- d) Any remedial works required to upgrade the existing *Stormwater Drainage System* crossing the footpath and any new kerb outlets,
- e) Any new *Stormwater Drainage System* complying with the BCA,
- f) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath,
- g) Any rainwater tank (See Note Below) required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*, and
- h) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management

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

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

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

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

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

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

Note: Woollahra Municipal Council's *Specification for Roadworks, Drainage and Miscellaneous Works* dated January 2003 and Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management can be downloaded from Council's website: www.woollahra.nsw.gov.au

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

D.1 Compliance with Building Code of Australia and insurance requirements under the [Home Building Act 1989](#)

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

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

This condition does not apply:

- a) to the extent to which an exemption is in force under *the Home Building Regulation 2004*,
- b) to the erection of a temporary building.

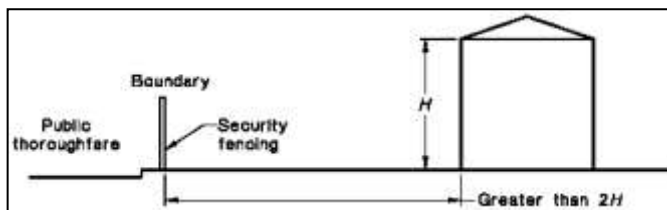
In this condition, a reference to the *BCA* is a reference to that code as in force on the date the application for the relevant construction certificate is made.

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

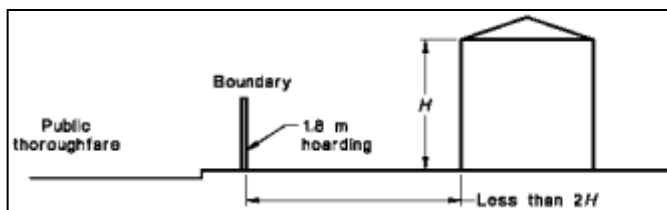
Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.

D.2 Security Fencing, Hoarding and Overhead Protection

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



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

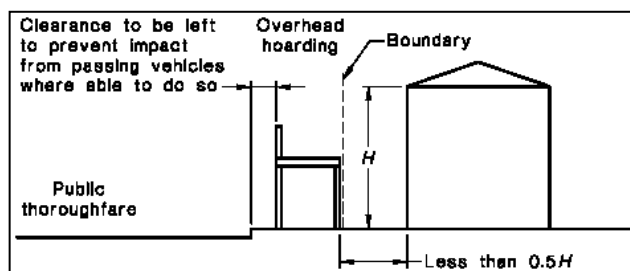


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either:

- a) The vertical height above footpath level of the structure being demolished is less than 4.0 m; or
- b) The least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:

- a) Extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
- b) Have a clear height above the footpath of not less than 2.1 m;
- c) Terminate 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5 m above the platform surface; and
- d) Together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



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

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

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

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

D.3 Site Signs

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

Clause 98A of the Regulation provides:

Erection of signs

- For the purposes of section 80A (11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the principal certifying authority for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the *Act*, to comply with the technical provisions of the State's building laws."

Clause 227A of the Regulation provides:

Signs on development sites

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

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

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

Note: If *Council* is appointed as the *PCA* it will provide the sign to the *principal contractor* or *owner builder* who must ensure that the sign is erected and maintained as required by Clause 98A and Clause 227A of the *Regulation*.

D.4 Toilet Facilities

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

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

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

In this condition:

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

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

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

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

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

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

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

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

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

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

D.6 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)

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

- a) A construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
 - Appointed a principal certifying authority for the building work, and
 - Notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- c) The principal certifying authority has, no later than 2 days before the building work commences:
 - Notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - Notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - Appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - Notified the principal certifying authority of any such appointment, and
 - Unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - Given at least 2 days’ notice to the council of the person’s intention to commence the erection of the building.

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

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

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

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

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

D.7 Notification of Home Building Act 1989 requirements

- a) For the purposes of section 80A (11) of the Act, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.
- b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - In the case of work for which a *principal contractor* is required to be appointed:
 - the name and licence number of the principal contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that Act,
 - In the case of work to be done by an owner-builder:
 - the name of the owner-builder, and
 - if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws.

D.8 Establishment of boundary location, building location and datum

Prior to the commencement of any work the principal contractor or owner builder must ensure that a surveyor registered under the *Surveying Act 2002* sets out:

- a) The boundaries of the *site* by permanent marks (including permanent recovery points);
- b) The location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum ("AHD") in compliance with the approved plans;
- c) Establishes a permanent datum point (bench mark) within the boundaries of the *site* relative to AHD; and
- d) Provides a copy of a survey report by the registered surveyor detailing, the title boundaries, pegs/profiles, recovery points and bench mark locations as established pursuant to this condition to the PCA.

Note: Where the *principal contractor* or *owner builder* notes any discrepancy between the approved development consent and the *Construction Certificate*, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the *principal contractor* or *owner builder* should not proceed until satisfied that the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.

Note: On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks should be considered by the registered surveyor.

E. Conditions which must be satisfied during any development work

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

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

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

This condition does not apply:

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

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

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

E.2 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures, published by Standards Australia, and as in force at 13 September 2001.

E.3 Requirement to notify about new evidence

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

E.4 Critical Stage Inspections

Critical stage inspections must be called for by the *principal contractor* or *owner builder* as required by the PCA, any PCA service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*. *Critical stage inspections* means the inspections prescribed by the *Regulations* for the purposes of section 109E(3)(d) of the *Act* or as required by the *PCA* and any *PCA Service Agreement*.

Note: The PCA may require inspections beyond mandatory critical stage inspections in order that the PCA be satisfied that work is proceeding in accordance with this consent.

Note: The PCA may, in addition to inspections, require the submission of *Compliance Certificates*, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

E.5 Hours of Work –Amenity of the neighbourhood

- a) No *work* must take place on any Sunday or public holiday,
- b) No *work* must take place before 7am or after 5pm any weekday,
- c) No *work* must take place before 7am or after 1pm any Saturday,
- d) The following *work* **must not** take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday;
 - i) Piling;
 - ii) Piering;
 - iii) Rock or concrete cutting, boring or drilling;
 - iv) Rock breaking;
 - v) Rock sawing;
 - vi) Jack hammering; or
 - vii) Machine excavation,
- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday
- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday
- g) No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

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

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

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

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

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

Note: EPA Guidelines can be down loaded from www.epa.nsw.gov.au.

E.6 Public Footpaths – Safety, Access and Maintenance

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

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.

- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any *work*.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect street name inlays in the footpath which are not to be removed or damaged during development.

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

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

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

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

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

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

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

E.7 Erosion and Sediment Controls – Maintenance

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

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

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



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

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

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

E.8 Disposal of site water during construction

The principal contractor or owner builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from *Council* under section 138(1)(d) of the *Roads Act 1993*;
- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act 1997*, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water;
- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

Note: This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.

E.9 Site Cranes

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

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

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

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

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

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

E.10 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

The *Principal Contractor* or *Owner Builder* must ensure that a surveyor registered under the *Surveying Act 2002* carries out check surveys and provides survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the *site* and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.

The *Principal Contractor* or *Owner Builder* must ensure that work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the *PCA*'s satisfaction:

- a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level;
- b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey;
- c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof;
- d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like;
- e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.;
- f) Stormwater Drainage Systems prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

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

E.11 Placement and use of Skip Bins

The *principal contractor* or *owner builder* must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 94 of the *Local Government Act 1993* to place the waste storage container in a public place, and

- b) Where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules to the extent they are adopted under the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999*.

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.

E.12 Prohibition of burning

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

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

E.13 Dust Mitigation

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

This generally requires:

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

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

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

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

E.14 Compliance with Council’s Specification for Roadworks, Drainage and Miscellaneous Works Road works and work within the Road and Footway

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

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

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

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

E.15 Site waste minimisation and management – Demolition

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

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

When implementing the SWMMP the applicant must ensure:

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

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

E.16 Site waste minimisation and management – Construction

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

- a) The provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work
- b) Arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage
- c) Consider organising to return excess materials to the supplier or manufacturer
- d) Allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation)
- e) Clearly 'signpost' the purpose and content of the storage areas

- f) Arrange contractors for the transport, processing and disposal of waste and recycling. Ensure that all contractors are aware of the legal requirements for disposing of waste.
- g) Promote separate collection bins or areas for the storage of residual waste
- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter
- i) Minimise site disturbance and limit unnecessary excavation
- j) Ensure that all waste is transported to a place that can lawfully be used as a waste facility
- k) Retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, Department of Environment and Climate Change (DECC) or WorkCover NSW

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

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

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

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

F.2 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 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 the *BCA* must include but may not be limited to:

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

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

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

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

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

Nil.

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

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No.A235676.

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."

H.2 Removal of Ancillary Works and Structures

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

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

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

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 February 2012 unless expressly provided otherwise by these conditions at the *principal contractor’s* or *owner’s* expense:

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

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

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

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.A235676.

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.

J. Miscellaneous Conditions

Nil.

K. Advisings

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

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

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

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

Warnings as to potential maximum penalties

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

Warning as to enforcement and legal costs

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

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

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

K.2 Dial before you dig



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

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

K.3 Commonwealth Disability Discrimination Act 1992 (“DDA”)

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

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

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

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

K.4 NSW Police Service and Road Closures

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

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

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

K.5 Builder's 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>.

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

K.6 Building Standards - Guide to Standards and Tolerances

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

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

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

The Guide can be down loaded from: www.fairtrading.nsw.gov.au

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

K.7 Workcover requirements

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

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

K.8 Asbestos Removal, Repair or Disturbance

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

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

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

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

K.9 Lead Paint

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

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

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

K.10 Dividing Fences

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

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

K.11 Release of Security

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

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

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

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

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

Note: The Application for Refund of Security form can be downloaded from www.woollahra.nsw.gov.au

K.12 Appeal

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

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

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

K.13 Recycling of Demolition and Building Material

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

K.14 Owner Builders

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

K.15 Roads Act Application

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

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

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

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

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

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

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

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

Drainage design works must comply with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management, and

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

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

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

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

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

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

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

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

For the Motion

Councillor Cavanagh
Councillor Keulemans
Councillor Levenston
Councillor O'Regan
Councillor Petrie
Councillor Wynne

Against the Motion

Councillor Elsing
Councillor Robertson

6/2

Urban Planning Committee

Items with Recommendations from the Committee Meeting of Monday 13 February 2017 Submitted to the Council for Determination

Item No: R1 Recommendation to Council

Subject: **PLANNING PROPOSAL FOR 636 AND 638-646 NEW SOUTH HEAD ROAD, ROSE BAY**

Author: Jorge Alvarez, Senior Strategic Planner

Approvers: Allan Coker, Director - Planning & Development
Chris Bluett, Manager - Strategic Planning
Anne White, Acting Team Leader - Strategic Planning

File No: 17/7403

Reason for Report: To report on a request for a planning proposal submitted by JPR Architects for 636 and 638-646 New South Head Road, Rose Bay.
To obtain Council's approval to prepare a planning proposal and forward it to the Greater Sydney Commission for a gateway determination.

Note: Councillor Elsing declared a Significant, Non-Pecuniary Interest in this Item, as she is a member of the Sydney Central Planning Panel (SCPP) and may be dealing with the matter at the SCPP. Councillor Elsing vacated meeting and did not participate in the debate or vote on this matter.

(O'Regan/Robertson)

22/17 Resolved without debate:

- A. That Council prepare a planning proposal which explains a proposed amendment to Woollahra LEP 2014, which will permit development for the purpose of a residential flat building, but only as part of a mixed use development on land at 636 and 638-646 New South Head Road, Rose Bay.
- B. That the planning proposal contained in Annexure 1 of the report to the Urban Planning Committee meeting of 13 February 2017 be forwarded to the Greater Sydney Commission requesting a gateway determination to allow public exhibition.
- C. That when requesting a gateway determination for the planning proposal, the Council seek delegation of the plan-making steps under section 59 of the *Environmental Planning and Assessment Act 1979*.

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

For the Motion

Against the Motion

Councillor Cavanagh
 Councillor Keulemans
 Councillor Levenston
 Councillor O'Regan
 Councillor Petrie
 Councillor Robertson
 Councillor Wynne

Nil

7/0

Item No: R2 Recommendation to Council

Subject: **PLANNING PROPOSAL FOR THE IAN STREET AND WILBERFORCE AVENUE CAR PARKS IN THE ROSE BAY CENTRE.**

Author: Brendan Metcalfe, Strategic Planner

Approvers: Anne White, Acting Team Leader - Strategic Planning
Chris Bluett, Manager - Strategic Planning
Allan Coker, Director - Planning & Development

File No: 17/8273

Reason for Report: To obtain Council's endorsement of a planning proposal for the Ian Street and Wilberforce Avenue car parks in the Rose Bay Commercial Centre for the purpose of submitting it to the Greater Sydney Commission for a gateway determination.

Note: Councillor Elsing was not in the Chamber for discussion, debate or voting on this Item.

**Motion moved by Councillor Robertson
Seconded by Councillor Levenston**

- A. That the planning proposal for the Ian Street and Wilberforce Avenue car parks in the Rose Bay Centre as contained in **Annexure 1** of the report to the Urban Planning Committee of 13 February 2017 be submitted to the Greater Sydney Commission requesting a gateway determination.
- B. That when requesting a gateway determination for the planning proposal, the Council seek delegation of the plan-making steps under section 59 of the *Environmental Planning and Assessment Act 1979*.
- C. That Council notes the desirability of providing affordable housing on the site and seeks to explore all options and impacts for the provision of affordable housing in the future development of the Wilberforce Car Park site.

**Amendment moved by Councillor O'Regan
Seconded by Councillor Keulemans**

- A. That the planning proposal for the Ian Street and Wilberforce Avenue car parks in the Rose Bay Centre as contained in **Annexure 1** of the report to the Urban Planning Committee of 13 February 2017 be submitted to the Greater Sydney Commission requesting a gateway determination.
- B. That when requesting a gateway determination for the planning proposal, the Council seek delegation of the plan-making steps under section 59 of the *Environmental Planning and Assessment Act 1979*.

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

(O'Regan/Keulemans)**23/17 Resolved:**

- A. That the planning proposal for the Ian Street and Wilberforce Avenue car parks in the Rose Bay Centre as contained in **Annexure 1** of the report to the Urban Planning Committee of 13 February 2017 be submitted to the Greater Sydney Commission requesting a gateway determination.
- B. That when requesting a gateway determination for the planning proposal, the Council seek delegation of the plan-making steps under section 59 of the *Environmental Planning and Assessment Act 1979*.

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

For the Motion***Against the Motion***

Councillor Cavanagh
Councillor Keulemans
Councillor Levenston
Councillor O'Regan
Councillor Petrie
Councillor Robertson
Councillor Wynne

Nil

7/0

Community & Environment Committee

Items with Recommendations from the Committee Meeting of Monday 13 February 2017 Submitted to the Council for Determination

Item No:	R1 Recommendation to Council
Subject:	DELIVERY PROGRAM 2013 - 2017 AND OPERATIONAL PLAN 2016/17 QUARTERLY PROGRESS REPORT - DECEMBER 2016 - GOAL 1-A CONNECTED & HARMONIOUS COMMUNITY, GOAL 2-A SUPPORTED COMMUNITY, GOAL 3-A CREATIVE & VIBRANT COMMUNITY, GOAL 5-LIVEABLE PLACES, GOAL 6-GETTING AROUND, GOAL 7-PROTECTING OUR ENVIRONMENT AND GOAL 8-SUSTAINABLE USE OF RESOURCES (FY230)
Authors:	Don Johnston, Chief Financial Officer Craig Bennett, Manager Governance & Council Support
Approvers:	Tom O'Hanlon, Director - Technical Services Kylie Walshe, Director - Community Services
File No:	17/8593
Reason for Report:	To review the status of the Priorities and Actions in Council's Delivery Program 2013 to 2017 and Operational Plan 2016/17 for the three months ending 31 December 2016.

(Cavanagh/Robertson)

24/17 Resolved without debate:

THAT the December 2016 Quarterly Progress Report on Goal 1-A connected & harmonious community, Goal 2-A supported community, Goal 3-A creative & vibrant community, Goal 5-Liveable places, Goal 6-Getting around, Goal 7-Protecting our environment and Goal 8-Sustainable use of resources of Council's Delivery Program 2013 to 2017 and Operational Plan 2016/17 be received and noted.

Questions for Next Meeting

Item No: 12.1
Subject: **QUESTIONS FOR NEXT MEETING**
Author: Sue O'Connor, Secretarial Support - Governance
Approver: Craig Bennett, Manager Governance & Council Support
File No: 17/23908
Reason for Report: To provide a response to Questions for Next Meeting from Council Meeting of 13 February 2017 and for Councillors to ask Questions for Next Meeting in accordance with Council's Code of Meeting Practice.

(Robertson/Levenston)

25/17 **Resolved:**

- A. That the responses to previous Questions for Next Meeting be noted.
- B. That Councillors ask Questions for Next Meeting in accordance with Council's Code of Meeting Practice.

Question Number: 12.1 Timeframe for next Woollahra Council Elections

Councillor Petrie asking:

What is the most likely scenario of the next Local Government Elections for Woollahra Municipal Council?

General Manager in response:

Madam Deputy Mayor, there are two parts to that. If there is a merger that occurs before the scheduled election which is in September 2017, then it is possible for the government to call off that election by virtue of a proclamation of the three Councils into one. If that doesn't occur we would have an election on 9 September 2017 as a Council standing as Woollahra, along with Waverley, Randwick and all of those other Councils that haven't been merged at this point in time.

Councillor Petrie further asking:

How does that follow into suggestions in the newspaper and other places that it may be March 2018 or even later. How does that fit into what you just said?

General Manager further in response:

Madam Deputy Mayor, I think what it alludes to there is that if there is a merger from any of these Councils between now and September 2017, I think it is unlikely that the Electoral Commission can set themselves up to conduct the election in September 2017, so those elections will be postponed to a date that would probably be March of next year. That would be a matter set in the proclamation when it is actually handed down.

Question Number: 12.2 Letter to Buckingham Palace - congratulating Her Majesty

Councillor Cavanagh asking:

Have we written to Buckingham Palace congratulating Her Majesty as per the resolution of the last Council Meeting?

General Manager in response:

I haven't seen the letter but I will inform all the Councillors in terms of the progress of that.

Question Number: 12.3 Loss of Road Reserve/Loss of Sandfill in the Municipality

Councillor Elsing asking:

Could staff please provide as response to questions on notice the outcome of the current investigation into the incident described as "loss of road reserve outside of 11a Wentworth Street and loss of sand/fill" as well as any other similar occurrences in the municipality.

Director - Technical Services in response:

Madam Mayor I will provide a more detailed response on notice but I can advise that we are still, in conjunction with the owner of the adjacent property, investigating the cause of the road collapse.

There being no further business the meeting concluded at 9.07pm.

We certify that the pages numbered 518 to 570 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 27 February 2017 and confirmed by Council at the Ordinary Meeting of Council on 13 March 2017 as correct.

General Manager

Mayor