Agenda: Development Control Committee

Date: Monday 17 August 2015

Time: 6.00pm
Outline of Meeting Protocol & Procedure:

- The Chairperson will call the Meeting to order and ask the Committee/Staff to present apologies or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Committee.
- If person(s) wish to address the Committee, they are allowed four (4) minutes in which to do so. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (eg applicant/objector), the objector speaks first.
- At the conclusion of the allotted four (4) minutes, the speaker resumes his/her seat and takes no further part in the debate unless specifically called to do so by the Chairperson.
- If there is more than one (1) person wishing to address the Committee from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- The Chairperson has the discretion whether to continue to accept speakers from the floor.
- After considering any submissions the Committee will debate the matter (if necessary), and arrive at a recommendation (R items which proceed to Full Council) or a resolution (D items for which the Committee has delegated authority).

Recommendation only to the Full Council or to the Strategic & Corporate Committee (“R” Items)

- Specified developments, as may be determined and listed by the Council by resolution taken from time to time.
- Matters which involve broad strategic or policy initiatives within responsibilities of Committee.
- Matters requiring the expenditure of moneys and in respect of which no Council vote has been made.
- Matters not within the specified functions of the Committee.
- Matters reserved by individual Councillors in accordance with any Council policy on "safeguards" and substantive changes.

Delegated Authority (“D” Items)

To determine all development applications and related applications, which are not required to be determined by the Council under Council’s adopted procedures for the call up of applications except:

a) Applications for review of a determination under section 82A of the Environmental Planning and Assessment Act 1979 (“the Act”) where the DCC determined the original application.

b) Development applications for development on community land which may not be delegated for determination under section 47E of the LG Act.

Committee Membership: 7 Councillors

Quorum: The quorum for a Committee meeting is 4 Councillors.
Woollahra Municipal Council

Notice of Meeting

10 August 2015

To: Her Worship the Mayor, Councillor Toni Zeltzer ex-officio
Councillors Ted Bennett (Chair)
     Luise Elsing
     James Keulemans (Deputy Chair)
     Greg Levenston
     Anthony Marano
     Katherine O’Regan

Dear Councillors

Development Control Committee – 17 August 2015

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council’s Development Control Committee meeting to be held in the Thornton Room (Committee Room), 536 New South Head Road, Double Bay, on Monday 17 August 2015 at 6.00pm.

Gary James
General Manager
## Meeting Agenda
### Session One - Commencing at 6.00pm

<table>
<thead>
<tr>
<th>Item</th>
<th>Subject</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Leave of Absence and Apologies</td>
<td></td>
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<tr>
<td>2.</td>
<td>Late Correspondence</td>
<td></td>
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<tr>
<td>3.</td>
<td>Declarations of Interest</td>
<td></td>
</tr>
</tbody>
</table>

**Items to be Decided by this Committee using its Delegated Authority**

D1  Confirmation of Minutes of Meeting held on 3 August 2015 ............................................. 1

D2  DA447/2014/1 - 2 Cascade Street, Paddington ................................................................. 3  
*See Recommendation Page 30

D3  DA2015/238 - 6/276 New South Head Road Double Bay ..................................................... 115  
*See Recommendation Page 133

D4  DA2012/387/2 - 28 Bay Street Double Bay (Royal Oak Hotel) ............................................. 167  
*See Recommendation Page 169

*Note: Confidential Annexure Circulated Under Separate Cover

D5  Register of Current Land and Environment Court Matters and Register for Court Proceedings for Building Control, Environmental Control and Health Control ................................................................. 171

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

Nil ‘R’ items
Item No: D1  Delegated to Committee
Subject: CONFIRMATION OF MINUTES OF MEETING HELD ON 3 AUGUST 2015
Author: Sue O’Connor - Governance
File No: 15/109001
Reason for Report: The Minutes of the Development Control Committee of 3 August 2015 were previously circulated. In accordance with the guidelines for Committees’ operations it is now necessary that those Minutes be formally taken as read and confirmed.

Recommendation:

THAT the Minutes of the Development Control Committee Meeting of 3 August 2015 be taken as read and confirmed.
DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No. D2
FILE No. DA 447/2014/1
ADDRESS 2 Cascade Street PADDINGTON
SITE AREA 177.2m²
ZONING Residential 2(a)
PROPOSAL Change of use of the first floor from residential to a commercial office; alterations and additions to the existing building including a new two storey addition with link structure to the rear of the site and new fencing
TYPE OF CONSENT Local development
COST OF WORKS $703,500.00
DATE LODGED 21/10/2014
24/02/2015 – Replacement Application submitted
15/06/2015 – Further amendments submitted
APPLICANT Hestian Pty Limited
OWNER Hestian Pty Limited
AUTHOR Mr A Gilderdale
TEAM LEADER Mr T Wong (Acting)

EXECUTIVE SUMMARY

1. LOCALITY PLAN

Subject site
Objectors
North

The Paddington Society
2. DELEGATIONS SUMMARY

<table>
<thead>
<tr>
<th>Level of Delegation</th>
<th>Recommendation of Report</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Development Application is to be determined by the Development Control Committee as the matter has been called by Councillor Peter Cavanagh for the following reasons:</td>
<td>Conditional approval.</td>
</tr>
<tr>
<td>• Residents’ concerns and the number of people complaining,</td>
<td></td>
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<tr>
<td>• Proposed change of usage;</td>
<td></td>
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<tr>
<td>• Former residence and shop to complete commercial premises in a residential area;</td>
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<tr>
<td>• Use of reflective glass;</td>
<td></td>
</tr>
<tr>
<td>• Proposed boundary to boundary construction is out of character with surrounding areas;</td>
<td></td>
</tr>
<tr>
<td>• Rooftop should be non-trafficable.</td>
<td></td>
</tr>
</tbody>
</table>

3. PROPOSAL SUMMARY

A Development Application was submitted on 21/10/2014 detailing the following (see figure 1.0):

- Change of use of the first floor from residential to a commercial office,
- Alterations and additions to the existing building including internal modifications, a new two storey addition with link structure to the rear of the site and new fencing,
- Provision of 1 on-site vehicle parking space, and
- Trading hours are 9.00am to 5:30pm Monday to Sunday.

Figure 1.0: Original development application – Southern elevation.
A Replacement Application was submitted on 24/02/2015 detailing the following amendments (see figure 2.0):

- Retention of the existing rear wing,
- Retention of the rear wing roof form,
- Retention of windows to the first floor side elevation of the breezeway,
- Reduction in glazing to southern side elevation of existing rear wing,
- Addition of a transition link structure between the existing and proposed new rear wing,
- Minor changes to fence detailing,
- Removal of a palm tree, and
- Deletion of 1 on-site vehicle parking space.

**Figure 2.0:** Replacement application – Southern elevation.
Amendments were made to the **Replacement Application** on 15/06/2015 detailing the following changes (see figure 3.0):

- A reduction in the length of the link structure between the existing and proposed rear wing,
- A reduction in glazing to the side elevation of the ground floor, and
- The addition of metal fencing to the southern side boundary adjacent to the existing rear wing (in part) in order to reduce the appearance of new glazing to the side elevation of the ground floor.

![Figure 3.0: Replacement application – Southern elevation after amendments.](image)

### 4. ISSUES SUMMARY

#### 4.1. Primary Issues

<table>
<thead>
<tr>
<th>Issue</th>
<th>Conclusion</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impact on the principal building form.</td>
<td>Acceptable subject to recommended <strong>condition C.1 (a).</strong></td>
<td>14.1</td>
</tr>
<tr>
<td>Profile of skylights.</td>
<td>Acceptable subject to recommended <strong>condition C.1 (b).</strong></td>
<td>14.11</td>
</tr>
<tr>
<td>Retention of chimney to rear wing.</td>
<td>Acceptable subject to recommended <strong>condition C.1 (c).</strong></td>
<td>14.12</td>
</tr>
<tr>
<td>Retention of existing window detailing to principal building form.</td>
<td>Acceptable subject to recommended <strong>condition C.1 (d).</strong></td>
<td>14.13</td>
</tr>
<tr>
<td>Use of reflective glass/materials.</td>
<td>Acceptable subject to recommended <strong>condition C.1 (e).</strong></td>
<td>25</td>
</tr>
<tr>
<td>Peppercorn Tree and fencing design.</td>
<td>Acceptable subject to recommended <strong>condition C.1 (f).</strong></td>
<td>14.17</td>
</tr>
<tr>
<td>Material detailing of new windows and doors.</td>
<td>Acceptable subject to recommended <strong>condition C.1 (g).</strong></td>
<td>14.13</td>
</tr>
<tr>
<td>Impact on streetscape and visual amenity of the Paddington Heritage Conservation Area.</td>
<td>The proposal has been amended to achieve an acceptable visual outcome upon the streetscape and the Paddington Heritage Conservation Area.</td>
<td>14.2</td>
</tr>
</tbody>
</table>
4.2. SEPP 1 Objections

<table>
<thead>
<tr>
<th>Clause in Woollahra LEP</th>
<th>Standard</th>
<th>Departure from Control</th>
<th>Satisfactory/ Unsatisfactory</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 12</td>
<td>Height of Building (9.5m)</td>
<td>10.1m (+ 0.6m or 6.3%)</td>
<td>Satisfactory.</td>
</tr>
</tbody>
</table>

4.3. Submissions

<table>
<thead>
<tr>
<th>Issue</th>
<th>Conclusion</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permissibility</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clause 30 of the WLEP 1995 does not apply.</td>
<td>This has been discussed in section 12.8 of this report. Clause 30 is applicable.</td>
<td>12.8</td>
</tr>
<tr>
<td>Existing use rights only apply to the ground floor corner rooms.</td>
<td>The proposal is permissible under Clause 30 of the Woollahra LEP 1995. The proposed development does not rely on existing use rights.</td>
<td>12.8</td>
</tr>
<tr>
<td>Lawfully commenced non-residential use has always included a residence at the upper level.</td>
<td>This is noted. However, Clause 30 of the Woollahra LEP 1995 does not require that a use be confined to only that area approved under a lawfully commenced non-residential use of a previous Development Consent.</td>
<td>12.8</td>
</tr>
<tr>
<td>Full commercialisation of building not permissible in the zone. Impacts on neighbourhood.</td>
<td>The proposal is permissible under Clause 30 of the Woollahra LEP 1995. The recommendation of this report includes standard conditions relating to noise and trading hours which will protect the amenity of the neighbourhood.</td>
<td>12.8</td>
</tr>
<tr>
<td>Commercial intrusion into a residential area.</td>
<td>The proposal is permissible under Clause 30 of the Woollahra LEP 1995.</td>
<td>12.8</td>
</tr>
<tr>
<td>Excessive intensification of commercial activity at the site.</td>
<td>The proposal is permissible under Clause 30 of the Woollahra LEP 1995 and does not represent an excessive intensification of the commercial use of the site.</td>
<td>12.8</td>
</tr>
<tr>
<td>Loss of first floor residence for commercial use.</td>
<td>The proposal is permissible under Clause 30 of the Woollahra LEP 1995. Further, the first floor could always be converted back to residential in the future.</td>
<td>12.8</td>
</tr>
<tr>
<td>Parking</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parking Report erroneous as it does not include all gross floor area.</td>
<td>This has been discussed in depth in section 15 of this report and the proposal is considered to be acceptable.</td>
<td>15</td>
</tr>
<tr>
<td>Parking Report states that the first floor residential component comprises 2 bedrooms and generates 1 car space under Council’s DCP, however, floor plans reveal 4 bedrooms upstairs, not 2.</td>
<td>The calculations contained in the Parking Report submitted by the applicant in support of the development application have not been relied upon. The assessment relies upon calculations performed by the assessing officer. A detailed assessment against the Parking DCP 2015 is provided under section 15 of this report.</td>
<td>15</td>
</tr>
<tr>
<td>Increased traffic and parking impacts.</td>
<td>Council’s Traffic Engineer considers the proposal to be acceptable in terms of traffic and parking.</td>
<td>15</td>
</tr>
<tr>
<td>Inadequate on-site vehicle parking.</td>
<td>This has been discussed in section 15 of this report.</td>
<td>15</td>
</tr>
<tr>
<td>Parking is difficult for local residents to obtain.</td>
<td>Council’s Traffic Engineer has reviewed the proposal and the submitted Car Parking Statement and concluded that local residents are protected by the existing resident parking restrictions which encourage turnover of parking and allow residents to park continuously (with a parking permit).</td>
<td>15 &amp; Annexure 2B</td>
</tr>
<tr>
<td>No provision for on-site vehicle parking.</td>
<td>Council’s Traffic Engineer has reviewed the proposal and submitted Car Parking Statement and concluded that the minor shortfall in parking requirement is considered to be acceptable. This has been discussed in section 15 of this report.</td>
<td>15 &amp; Annexure 2B</td>
</tr>
<tr>
<td>Loss of single on-site car parking space.</td>
<td>Council’s Traffic Engineer Officer has reviewed the proposal and submitted Car Parking Statement and concluded that the minor shortfall in parking requirement is considered to be acceptable.</td>
<td>15 &amp; Annexure 2B</td>
</tr>
<tr>
<td>Additional demand on parking will be onerous for residents</td>
<td>Council’s Traffic Engineer Officer has reviewed the proposal and submitted Car Parking Statement and concluded that the minor shortfall in parking requirement is considered to be acceptable.</td>
<td>15 &amp; Annexure 2B</td>
</tr>
</tbody>
</table>
## Issue

<table>
<thead>
<tr>
<th>Employees could be up to 20 not 6-8.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inadequate on-street parking for residents.</td>
</tr>
</tbody>
</table>

### Conclusion

- Shortfall in parking requirement is considered to be acceptable.
- Council’s Traffic Engineer Officer has reviewed the proposal and submitted Car Parking Statement and concluded that the minor shortfall in parking requirement is considered to be acceptable.

## Design

<table>
<thead>
<tr>
<th>Boundary to boundary rear addition is not allowed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impact on heritage conservation area.</td>
</tr>
<tr>
<td>Relocation of main entry from principal building form to side elevation has an adverse impact on the heritage significance of the building and streetscape.</td>
</tr>
<tr>
<td>Original form should be maintained and respected.</td>
</tr>
<tr>
<td>Non-traditional solid to void ratio.</td>
</tr>
<tr>
<td>Incompatible with streetscape.</td>
</tr>
<tr>
<td>All windows should comply with Victorian forms.</td>
</tr>
<tr>
<td>Bulk and scale of rear wing.</td>
</tr>
<tr>
<td>Side additions not in accordance with original form and streetscape.</td>
</tr>
<tr>
<td>Extensive use of glass will be reflective and not in keeping with the heritage conservation area.</td>
</tr>
<tr>
<td>Intrusive materials and details – (perforated brickwork).</td>
</tr>
<tr>
<td>Excessive glass entrance to Paddington Street – Fence should be continued with a recessive opening.</td>
</tr>
<tr>
<td>Uncharacteristic roof form.</td>
</tr>
<tr>
<td>Extends beyond the rear building alignment.</td>
</tr>
<tr>
<td>Established setbacks from the side boundary should be maintained.</td>
</tr>
<tr>
<td>Excessive bulk and scale.</td>
</tr>
</tbody>
</table>

### Section

- 2B
- 15 & Annexure 2B
- 14.2
- 14.1
- 14.3
- 14.1
- 14.13
- 14.8
- 14.2 + 14.3
- 14.3
- 14.16
- 14.2
- 14.4
- 14.5
- 14.3
- 14.8
<table>
<thead>
<tr>
<th>Issue</th>
<th>Conclusion</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Excessive glass on upper levels.</td>
<td>The solid to void ratio as amended is considered to be acceptable at the</td>
<td>14.3 &amp;</td>
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<tr>
<td></td>
<td>upper level. Further, it should be noted that the glazing to the side</td>
<td>14.13</td>
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<tr>
<td></td>
<td>elevation of the first floor level will be partly screened by brick</td>
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<td></td>
<td>detailing which will reduce its visibility from the streetscape.</td>
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<tr>
<td>Incompatible design.</td>
<td>As advised by Council’s Heritage Officer the proposal is acceptable subject</td>
<td>Annexure 4</td>
</tr>
<tr>
<td></td>
<td>to special conditions.</td>
<td></td>
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<tr>
<td>Existing rear wing should be preserved.</td>
<td>The proposal has been amended to preserve the existing rear wing.</td>
<td>14.3</td>
</tr>
<tr>
<td>The existing building was designed to match 1 Hopetoun</td>
<td>The building is not part of a pair or row group. The proposal is</td>
<td>14</td>
</tr>
<tr>
<td>Street, Paddington and the key characteristics of the</td>
<td>acceptable subject to <strong>Condition C.1.</strong></td>
<td></td>
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<tr>
<td>pair must be maintained.</td>
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<tr>
<td>Removal of chimney.</td>
<td>The existing chimney to the rear wing will be maintained. **Condition</td>
<td>14.12</td>
</tr>
<tr>
<td></td>
<td>C.1 (c) has been recommended.</td>
<td></td>
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<tr>
<td>All original windows and doors should remain intact</td>
<td><strong>Condition C.1 (d) has been recommended.</strong></td>
<td>14.13</td>
</tr>
<tr>
<td>(this is not clear on the plans).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Introduction of reflective glass.</td>
<td><strong>Condition C.1 (e) has been recommended.</strong></td>
<td>25</td>
</tr>
<tr>
<td>Removal of original internal staircase.</td>
<td>The proposal includes the removal of the internal staircase to the</td>
<td></td>
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<td></td>
<td>principal building form despite Council’s Heritage Officer providing</td>
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<td></td>
<td>advice to the contrary, however, this is considered acceptable as it</td>
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<td></td>
<td>will enhance the internal amenity of the building.</td>
<td></td>
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<tr>
<td>Interpretations of original wall positions required.</td>
<td>The plans adequately demonstrate the interpretation of original wall</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>positions.</td>
<td></td>
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<tr>
<td>Amenity</td>
<td></td>
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<tr>
<td>Employee behaviour i.e. parties, functions and evening</td>
<td>The proposal is for a commercial use. Notwithstanding this, the</td>
<td>20</td>
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<tr>
<td>gatherings.</td>
<td>recommendation of this report includes standard conditions relating to</td>
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<td></td>
<td>noise and the hours of use. The premises will be closed by 5pm.</td>
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<tr>
<td>Impact of commercial activity on amenity of the</td>
<td>The recommendation of this report includes standard conditions</td>
<td>20</td>
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<tr>
<td>neighbourhood.</td>
<td>relating to noise and trading hours which will protect the amenity of the</td>
<td></td>
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<tr>
<td></td>
<td>neighbourhood.</td>
<td></td>
</tr>
<tr>
<td>Objectives O1 and O3 and control C10 of Part 4.1.3 of</td>
<td>The building is not part of a pair or row group. The alterations and</td>
<td>14.3</td>
</tr>
<tr>
<td>the PHCA-DCP 2008 are applicable.</td>
<td>additions to the building respond appropriately to the underlying</td>
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<td></td>
<td>intent of the aforementioned objectives and control which are to preserve</td>
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<td>the characteristics of significant buildings and allow sympathetic</td>
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<td></td>
<td>contemporary design where appropriate. The proposal will retain the</td>
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<td></td>
<td>principal building form and rear wing and includes sympathetic</td>
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<td></td>
<td>contemporary design at the rear which has a minimal impact on the</td>
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<td></td>
<td>significance of the existing building. Council’s Heritage Officer has</td>
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<td></td>
<td>advised that the proposal is acceptable in terms of heritage</td>
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<td></td>
<td>conservation.</td>
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<td></td>
<td>The site contains a stand-alone building which does not form part of a</td>
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<td></td>
<td>pair or row group. Therefore, there is no architectural relationship</td>
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<td>between the subject site and northern neighbour (4 Cascade Street,</td>
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<td></td>
<td>Paddington). Notwithstanding this, 4 Cascade Street, Paddington will</td>
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<td></td>
<td>continue to receive adequate ventilation, solar access and privacy as a</td>
<td></td>
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<td></td>
<td>result of the proposal.</td>
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<tr>
<td>Non-compliances with DCP.</td>
<td>This has been discussed in section 14.1 of this report. The proposal as</td>
<td>14.1</td>
</tr>
<tr>
<td></td>
<td>amended is considered to be acceptable.</td>
<td></td>
</tr>
<tr>
<td>Non-compliance with controls C5 and C6 of Part 4.1.1 of</td>
<td>This has been discussed in section 14.2 of this report. The proposal as</td>
<td>14.2</td>
</tr>
<tr>
<td>the PHCA-DCP 2008.</td>
<td>amended is considered to be acceptable.</td>
<td></td>
</tr>
<tr>
<td>Non-compliance with objective O1 and O2 and control C2,</td>
<td>This has been discussed in section 14.3 of this report. The proposal as</td>
<td>14.3</td>
</tr>
<tr>
<td>C4 and C8 of Part 4.1.2 of the PHCA-DCP 2008.</td>
<td>amended is considered to be acceptable.</td>
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<tr>
<td>Non-compliance with objective O2 and controls C4, C6 and</td>
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<td>C10 of Part 4.1.3 of the PHCA-DCP 2008.</td>
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<tr>
<td>Issue</td>
<td>Conclusion</td>
<td>Section</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>Non-compliances with objective O3 and control C6 of Part 4.1.4 of the PHCA-DCP 2008.</td>
<td>This has been discussed in section 14.4 of this report. The proposal as amended is considered to be acceptable.</td>
<td>14.4</td>
</tr>
<tr>
<td>Non-compliance with objectives O2 and O3 and control C1, C2 and C3 of Part 4.1.5 of the PHCA-DCP 2008.</td>
<td>This has been discussed in section 14.5 of this report. The proposal as amended is considered to be acceptable.</td>
<td>14.5</td>
</tr>
<tr>
<td>Non-compliance with control C4 of Part 4.1.7 of the PHCA-DCP 2008.</td>
<td>This has been discussed in section 14.7 of this report. The proposal as amended is considered to be acceptable.</td>
<td>14.7</td>
</tr>
<tr>
<td>Non-compliance with controls C6 and C8 of Part 4.2.5 of the PHCA-DCP 2008.</td>
<td>The proposal does not include any new fencing in the street front zone as the existing building is built to the boundary leaving no space for fencing in the street front zone. New fencing is proposed to the side and rear of the site, however, this is not considered street front zone for the purpose of the controls. Notwithstanding this, the fencing to the side and rear boundaries of the site are considered to provide an appropriate response to the historical context of the locality.</td>
<td>14.15</td>
</tr>
<tr>
<td>Non-compliance with controls C4 and C5 of Part 4.2.8 of the PHCA-DCP 2008.</td>
<td>This has been discussed in section 14.16 of this report. The proposal as amended is considered to be acceptable.</td>
<td>14.16</td>
</tr>
<tr>
<td>Non-compliance with controls C1 and C10 of Part 4.2.6 of the PHCA-DCP 2008.</td>
<td>Controls C1 and C10 of Part 4.2.6 of the PHCA-DCP 2008 provide design guidelines in relation to the provision of on-site parking areas, parking structures and servicing areas such as loading facilities. The proposal has been amended deleting on-site vehicle parking; therefore, no further assessment is required on this case.</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**Other**

- Impact on house values.
  - The impact of a proposal on the value of houses is not a relevant matter for consideration under Section 79C of the Environmental Planning and Assessment Act 1979. | N/A |
- Access to the attic should only be via a drop down staircase and not a permanent staircase.
  - The proposal includes an internal staircase which is considered reasonable in this case as it will have no adverse impact on the amenity of surrounding properties. Notwithstanding this, recommended condition C.1 (i) and L.4 require that the attic be used for storage purposes only. | N/A |
- The void should be included as gross floor area.
  - There is no maximum floor space ratio for the site; therefore, calculation of gross floor area is not a relevant consideration. | N/A |
- Frustrations that Council is assessing a commercial development.
  - The proposal is permissible with Clause 30 of the Woollahra LEP 1995. | N/A |
- The loss of the words Teas, Herbs and Pottery on the Paddington Street frontage and apothecary on the Cascade Street frontage will be an historical loss.
  - It would appear that those words have been removed from the façade of the building already. Notwithstanding this, it is considered that the removal of the words has had a negligible impact on the heritage significance of the building. | N/A |
- “The scope of the building works seem fairly extensive, our property is rented and our tenants are going to be greatly affected, especially by the building extension at the back of the property. We are afraid that they may leave or ask to have a discounted rent for the duration of the renovation by our neighbour and in that case we would like to have some assurance to be compensated for not objecting to the application.”
  - The impact of a proposal on a lease agreement is not a relevant matter for consideration under Section 79C of the Environmental Planning and Assessment Act 1979. | N/A |
5. SITE AND LOCALITY

<table>
<thead>
<tr>
<th>Physical features</th>
<th>The site has an irregular shape and a total site area of 177.2m².</th>
</tr>
</thead>
<tbody>
<tr>
<td>Topography</td>
<td>The site is predominately flat.</td>
</tr>
<tr>
<td>Existing buildings and structures</td>
<td>The site contains a 2 storey building containing a shop on the ground floor and a residential dwelling on the upper floor.</td>
</tr>
<tr>
<td>Environment</td>
<td>The site is surrounded predominately by residential terraces houses with commercial shops along William Street, Paddington.</td>
</tr>
</tbody>
</table>

6. RELEVANT PROPERTY HISTORY

<table>
<thead>
<tr>
<th>Current use</th>
<th>Commercial use on the ground floor and residence on the first floor.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Previous Relevant Applications</td>
<td>DA 137/1993 – Commercial use to ground floor – Approved 22/11/1993.</td>
</tr>
<tr>
<td>Pre-DA</td>
<td>N/A</td>
</tr>
<tr>
<td>Requests for Additional Information</td>
<td>On 30/10/2014, Council requested the following additional information:</td>
</tr>
<tr>
<td>On 26/02/2015, Council requested the following additional information:</td>
<td>• Colourboard – Lodged 26/02/2015.</td>
</tr>
<tr>
<td></td>
<td>• Photomontage – Lodged 12/03/2015.</td>
</tr>
<tr>
<td></td>
<td>• Parking Report – Lodged 12/03/2015 &amp; titled “Car Parking Statement”.</td>
</tr>
<tr>
<td>On 15/06/2015, the applicant was asked to submit any information necessary to resolve the concerns raised by Council’s Trees &amp; Landscaping Officer in relation to the Peppercorn Tree to the rear yard of the site. The applicant submitted the following additional information:</td>
<td></td>
</tr>
</tbody>
</table>
We are reading a document from Woollahra Municipal Council Development Control Committee Agenda dated 17 August 2015. The agenda includes discussions on structural fence sketches, revised construction impact statement, and referrals. Below is a summary of the document:

- **Item No. D2**

  - Structural fence sketches (piers) – Lodged 02/07/2015.
  - Revised Construction Impact Statement – Lodged 02/07/2015.

  On 29/07/2014, Council requested the following additional information:

  - Rear Lane Elevation & Cross Section of Rear Wing – Lodged 05/08/2015.

  **Amended Plans/Replacement Application**

  A Replacement Application was submitted on 25/02/2015. Further amendments to the Replacement Application were submitted on 15/06/2015.

  **Land and Environment Court Appeal**

  Nil

  **7. REFERRALS**

<table>
<thead>
<tr>
<th>Referral</th>
<th>Summary of Comment</th>
<th>Annexure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Engineer Officer</td>
<td>Satisfactory – subject to standard conditions.</td>
<td>2</td>
</tr>
<tr>
<td>Trees &amp; Landscaping Officer</td>
<td>Satisfactory – subject to standard condition.</td>
<td>3</td>
</tr>
<tr>
<td>Heritage Officer</td>
<td>Satisfactory – subject to special conditions.</td>
<td>4</td>
</tr>
<tr>
<td>Fire Safety Officer</td>
<td>Satisfactory – subject to standard conditions.</td>
<td>5</td>
</tr>
</tbody>
</table>

  **ENVIRONMENTAL ASSESSMENT UNDER SECTION 79C**

  The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979 include the following:

  1. The provisions of any environmental planning instrument
  2. The provisions of any proposed instrument that is-has been the subject of public consultation
  3. The provisions of any development control plan
  4. Any planning agreement that has been entered into
  5. Any draft planning agreement that a developer has offered to enter into
  6. The regulations
  7. Any coastal zone management plan
  8. The likely impacts of that development:
     i) Environmental impacts on the natural and built environments
     ii) Social and economic impacts
  9. The suitability of the site
  10. Any submissions
  11. The public interest

  **8. ADVERTISING AND NOTIFICATION**

  **8.1. Submissions – Development Application**

  In accordance with Parts 3 and 4 of the Woollahra Advertising and Notification DCP, the Development Application was advertised and notified from 05/11/2014 to 19/11/2014. Submissions were received from:

  - Dan & Katie Beaumont 33 Paddington Street Paddington NSW 2021
  - Keri Huxley 34 Paddington Street Paddington NSW 2021
  - John Normyle 94 William Street Paddington NSW 2021
  - Rob & Anne Porter 35 Paddington Street Paddington NSW 2021
  - The Paddington Society PO Box 99 Paddington NSW 2021

  The issues raised in the submissions have been discussed in sub-section 4.3.
8.2. Statutory Declaration – Development Application

In accordance with Clause 4.5 of the Woollahra Advertising and Notification DCP, the applicant has completed the statutory declaration dated 01/12/2014 declaring that the site notice for DA 447/2014/1 was erected and maintained during the notification period in accordance with the requirements of the DCP.

8.3. Submissions – Replacement Application

A replacement application (as defined by Clause 90 of the Environmental Planning and Assessment Regulation 2000) was lodged on 25/02/2015. In accordance with Parts 3 and 4 of the Woollahra Advertising and Notification DCP, the Development Application was advertised and notified from 04/03/2015 to 18/03/2015. Submissions were received from:

- Dan & Katie Beaumont 33 Paddington Street Paddington NSW 2021
- Keri Huxley 34 Paddington Street Paddington NSW 2021
- Rob & Anne Porter 35 Paddington Street Paddington NSW 2021
- The Paddington Society PO Box 99 Paddington NSW 2021
- Daniel & Francia Tissot 4 Cascade Street Paddington NSW 2021 C/- Raine & Horne Bondi Beach PO Box 7188 Bondi Beach NSW 2026
- Aram Vesmadian 5 Cascade Street Paddington NSW 2021

The issues raised in the submissions have been discussed in sub-section 4.3.

8.4. Statutory Declaration – Replacement Application

In accordance with Clause 4.5 of the Woollahra Advertising and Notification DCP, the applicant has completed the statutory declaration dated 25/03/2015 declaring that the site notice for Replacement Application DA 447/2014/1 was erected and maintained during the notification period in accordance with the requirements of the DCP.

8.5. Re-advertising & Re-notification

On 15/06/2015, further architectural amendments were submitted to Council. In accordance with Clause 5.1 (2) of the Woollahra Development Control Plan for Advertising and Notification of Development Applications and Applications to Modify Development Consents 2007 re-advertising & re-notification of the amended architectural plans was not considered necessary as there would be no greater environmental harm as a result of the amendments on surrounding properties.

9. STATE ENVIRONMENTAL PLANNING POLICY 1: DEVELOPMENT STANDARDS

SEPP 1 provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5 (a) (i) and (ii) of the Act.

The applicant submitted a SEPP 1 objection in relation Clause 12 & 12AA in relation to Height. This is discussed in depth in sub-section 12.3 of this report.
10. STATE ENVIRONMENTAL PLANNING POLICY 55: REMEDIATION OF LAND

Under Clause 7(1)(a) of SEPP 55 – Remediation of Land, consideration has been given as to whether the subject sites on which the development is occurring is contaminated. The land is currently used for commercial/residential purposes. There is no evidence before Council to suggest that the land is contaminated. Consequently, the site is suitable for the proposed commercial use and Council can be satisfied that remediation is not required. Therefore, the proposal is considered acceptable with regard to SEPP 55.

11. SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005

The land is within the Sydney Harbour catchment but is outside the Foreshores and Waterways Area and therefore there are no specific matters for consideration.

12. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 1995

12.1. Clause 2: Aims and Objectives of Woollahra LEP 1995

The proposal is consistent with the aims and objectives of the Woollahra LEP 1995.

12.2. Clause 8(5): Aims and Objectives of the Zone

The proposal is permissible and is consistent with the aims and objectives of the Residential 2 (a) zone. Also refer to section 12.8.

12.3. Clause 12: Height of Buildings

Clause 12 limits development to a maximum height of 9.5m.

<table>
<thead>
<tr>
<th>Overall Height</th>
<th>Existing</th>
<th>Proposed</th>
<th>Control</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>6.9m (Existing Rear Wing)</td>
<td>6.9m (Proposed Rear Wing)</td>
<td>9.5m</td>
<td>No*</td>
</tr>
<tr>
<td></td>
<td>10.1m (Existing Principal Building Form)</td>
<td>10.1m (Principal Building Form Attic Interior)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* SEPP No. 1 Objection submitted.

The applicant has submitted an objection pursuant to State Environmental Planning Policy No. 1 – Development Standards in relation to the non-compliance with Clause 12 of the Woollahra LEP 1995.
The following assessment of the SEPP 1 objection applies the questions established in Winten Property Group Limited v North Sydney Council.

These questions remain the principal tests to establish whether or not a SEPP 1 Objection is well founded, however, the more recent principles arising from Wehbe v Pittwater Council are applied to inform the assessment.

1. **Is the planning control in question a development standard?**

   The planning control in question is the maximum building height standard set by Clause 12 of Woollahra LEP 1995. As such, any variation of the standard requires a SEPP 1 objection, as has been prepared in this case.

2. **What is the underlying purpose of the standard?**

   The objectives of the minimum site area standard in Clause 12AA are:
   
   a) To minimise impact of new development on existing views of Sydney Harbour, ridgelines, public and private open spaces and views of the Sydney City skyline
   b) To provide compatibility with the adjoining residential neighbourhood
   c) To safeguard visual privacy of interior and exterior living areas of neighbouring dwellings
   d) To minimise detrimental impacts on existing sunlight access to interior living rooms and exterior open space areas and minimise overshadowing
   e) To maintain the amenity of the public domain by preserving public views of the harbour and surrounding areas and the special qualities of the streetscapes

3. **Is compliance with the development standard consistent with the aims of the Policy, and in particular, does the development standard tend to hinder the attainment of the objects specified in s.5(a)(i) and (ii) of the EPA Act?**

   The aim of the Policy is set out at Clause 3 and seeks to “provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979.

   In Wehbe v Pittwater Council, Commissioner Preston stated:

   "An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard."

   Accordingly, the following assessment considers the objection made by the applicant against the provisions of Clause 12 of Woollahra LEP 1995 and whether or not it is established that the objectives of the development standard are achieved irrespective of the non-compliance.
Objective (a)

(a) The Objective aims to minimise impact of new development on existing views of Sydney Harbour, ridgelines, public and private open spaces and views of the Sydney City skyline.

(b) The Applicant’s submission provides inter alia:

“As indicated, the proposal will not result in any increase to the existing topmost ridge nor will it result in any external changes that are beyond the 9.5m development standard. The majority of the new attic complies with the 9.5 m development standard. Given the site is surrounded terrace buildings of similar height and scale, many of which have attics with dormer windows, the proposed area of non-compliance will not have any impacts on existing views of Sydney Harbour, ridges, public and private open space and views of the Sydney City Skyline. In our opinion, objective (a) is satisfied by the proposed development.”

(c) Assessment:

- The proposal will result in an acceptable view sharing outcome, therefore, the SEPP No. 1 objection is considered to be acceptable in this regard.
- The SEPP No. 1 objection therefore achieves consistency with objective (a).

Objective (b)

(a) The Objective aims to provide compatibility with the adjoining residential neighbourhood.

(b) The Applicant’s submission provides inter alia:

“The proposed building is compatible with the adjoining residential neighbourhood. The surrounding development is characterised by 2 and 3 storey terrace houses (many with attic spaces). The internal alterations to the attic will not be visible from the private or public domain. In our opinion, objective (b) is satisfied by the proposed development.”

(c) Assessment:

- The proposal is compatible with the surrounding residential neighbourhood.
- The SEPP No. 1 objection therefore achieves consistency with objective (b).

Objective (c)

(a) The Objective aims to safeguard visual privacy of interior and exterior living areas of neighbouring dwellings.

(b) The Applicant’s submission provides inter alia:

“As the external area of non-compliance comprises the top of the existing roof not the window, there will be no change to the visual privacy of internal and external living areas of neighbouring dwellings. In our opinion, objective (c) is satisfied by the proposed development.”
(c) Assessment:

- The proposal has a negligible impact on the surrounding properties in terms of visual privacy.
- The SEPP No. 1 objection therefore achieves consistency with objective (c).

**Objective (d)**

(a) The Objective aims to minimise detrimental impacts on existing sunlight access to interior living rooms and exterior open space areas and minimise overshadowing.

(b) The Applicant’s submission provides inter alia:

“Given there are no external works beyond the 9.5m development standard, there will not be an adverse impact on existing sunlight access to living rooms and open space areas.

Given the existing main roof and ridge are otherwise unaltered there will be no overshadowing created by this area of non-compliance. Accordingly, in our opinion, objective (d) is satisfied by the proposal.”

(c) Assessment:

- The proposal will have a negligible impact on the surrounding properties in terms of solar access to interior living rooms and exterior open space given the design of the proposal.
- The SEPP No. 1 objection therefore achieves consistency with objective (d).

**Objective (e)**

(a) The Objective aims to maintain the amenity of the public domain by preserving public views of the harbour and surrounding areas and the special qualities of the streetscapes.

(b) The Applicant’s submission provides inter alia:

“The proposal will maintain the amenity of the public domain and not impact on public views of the Harbour and surrounding areas. The building will continue to present a two storey terrace structure, in keeping with the existing built form of surrounding development in Paddington and Cascade Streets. Through its form, scale, and materials, the proposal will continue to positively contribute to the streetscape and will not obstruct views of the Harbour or the surrounding area. In our opinion, objective (e) is satisfied by the proposed development.”

(c) Assessment:

- The proposal has been amended to achieve an acceptable visual outcome upon the streetscape and the Paddington Heritage Conservation Area.
- The SEPP No. 1 objection therefore achieves consistency with objective (e).

As a result of this assessment it is considered that, notwithstanding the non-compliance with the development standard, the underlying objectives founding that standard are achieved by the proposed development.
The Land and Environment Court has established that it is insufficient merely to rely on absence of environment harm to sustain an objection under SEPP 1. This position was confirmed in Wehbe v Pittwater Council. The following assessment considers whether the objection demonstrates that strict application of the development standard would hinder the attainment of the objects of the Environmental Planning and Assessment Act 1979.

Section 5(a) of the Act prescribes the objects relevantly as to encourage:

i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment

ii) The promotion and co-ordination of the orderly and economic use and development of land

iii) The protection, provision and co-ordination of communication and utility services

iv) The provision of land for public purposes

v) The provision of co-ordination of community services

vi) The protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities

vii) Ecologically sustainable development

viii) The provision and maintenance of affordable housing

The proposal provides an appropriate response to the context of surrounding development in terms of height, view sharing, solar access and privacy. The development provides necessary improvements in internal amenity with minimal environmental impact to surrounding properties. The height is synonymous with development in the locality and responds appropriately to the existing height of the building.

It is concluded that for the reasons prescribed above and by the arguments presented by the applicant, the strict application of the height development standard in the circumstances of this case hinder the attainment of the objectives of the Act.

4. Is compliance with the standard unreasonable and unnecessary in the circumstances of the case?

The foregoing analysis has found that notwithstanding the non-compliance with the maximum building height standard, the proposed development achieves the underlying objectives of that standard. Consequently it is considered that the SEPP 1 objection has established that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

5. Is the objection well founded?

The objection advanced by the applicant to the maximum building height development standard is well founded on the basis that its strict application would hinder the attainment of the objects of the Act and that the proposed development achieves the underlying objectives of the standard.

12.4. Clause 18: Excavation of Land

The proposal is acceptable in terms of Clause 18 of the Woollahra LEP 1995 subject to recommended condition D.2.
12.5. Clause 25: Water, Wastewater and Stormwater

The proposal is acceptable in terms of Clause 25 of the Woollahra LEP 1995 subject recommended condition C.8 and E.11.

12.6. Clause 25D: Acid Sulphate Soils

The proposal is acceptable in terms of Clause 25D of the Woollahra LEP 1995.

12.7. Clause 28: Heritage Conservation Areas

The proposal is acceptable in terms of Clause 28 of the Woollahra LEP 1995.

12.8. Clause 30: Additional Uses in Heritage Conservation Areas

Clause 30 of the Woollahra LEP 1995 provides:

(1) This clause applies to all buildings and the allotments on which they are situated or any parts thereof located within a heritage conservation area, other than those situated within Zone No. 3(a), 3(b), 3(b1) or 3(c):

   (a) where the whole or part of the building has a history of a lawfully commenced non-residential use, whether or not that use was discontinued, abandoned or interrupted, and
   (b) where the whole or part of the building was originally lawfully constructed with a non-residential design or was lawfully altered or adapted to a non-residential design.

(2) Notwithstanding clause 8, the Council may consent to the use of a building or part thereof, referred to in subclause (1), for the purpose of commercial premises (not being a brothel), community facilities, artisans’ studios, educational establishments, public buildings and shops.

(3) In addition to the use of a building or part thereof, the Council may also consent to the use of the allotment on which the building is situated for any purpose specified in subclause (2).

(4) The Council may grant a consent pursuant to this clause that will result in:

   (a) an increase in the gross floor area of a building referred to in subclause (1), and
   (b) the use of that increased area for a purpose specified in subclause (2), or, where part of a building is used for a purpose specified in subclause (2), that will result in an increase in the use of the gross floor area of such a building for the purpose specified.

(5) The Council must not grant consent as referred to in subclause (2) or (4) unless it is satisfied that carrying out development in accordance with the consent will not adversely affect the heritage significance of the building, its site, or the heritage conservation area and will not detrimentally affect the enjoyment by an occupier of any lands adjoining or adjacent to, or in the neighbourhood of, the lands upon which such development is proposed.

(6) The Council must not grant consent as referred to in subclause (2) or (4) unless it is satisfied that the external architecture of the building or part thereof:
(a) is compatible with the external architecture of other buildings in the vicinity, or
(b) is, by virtue of the proposal, to be made compatible with the external architecture of other buildings in the vicinity, or
(c) has architectural or historic value of its own which will be conserved.

In terms of Clause 30 (1), the site is situated within a heritage conservation area (Paddington Heritage Conservation Area) and is zoned Residential 2 (a). The building has a history of a lawfully commenced non-residential use as evidenced by Development Application DA 137/1993/1 which granted development consent to a commercial use on the ground floor and maintained the residential use on the first floor. The approved trading hours were from 9.00am to 5.00pm Monday to Sunday. The planning report for Development Application DA 137/1993/1 deliberates on the previous uses stating inter alia:

“The site has a long history of non-residential use (see property file). According to notes on the property file prior to 1968 the property was used as a grocery shop and residence. In 1968 approval was given to the use of the premises as an antique shop, gallery and dwelling. In 1988, DA (1025/88) approval was given for the use of the premises as an art gallery, public relations office and residence.

The subject property has a history of non-residential use and being a corner site it has a traditional corner shop, shopfront” ...

The building has a non-residential design at the ground floor level, however, Council is not in receipt of a file demonstrating that the building was originally lawfully constructed with a non-residential design or was lawfully altered or adapted to a non-residential design. Notwithstanding this, the aforementioned previous history coupled with Development Application DA 137/1993/1 adequately satisfies this criterion.

In terms of Clause 30 (2), it is proposed to maintain the commercial use on the ground floor and change the use on the first floor/attic from a residential use to a commercial use. The proposed commercial use is a permitted use under Clause 30.

In terms of Clause 30 (3) and (4), the intents are noted.

In terms of Clause 30 (5), as advised by Council’s Heritage Officer, the proposal will not adversely affect the heritage significance of the building, its site, or the heritage conservation area subject to Condition C.1. In addition, the proposal will not detrimentally affect the enjoyment by an occupier of any lands adjoining or adjacent to, or in the neighbourhood of, the lands upon which such development is proposed. The proposal therefore satisfies Clause 30 (5).

In terms of Clause 30 (6), as advised by Council’s Heritage Officer, the external architecture of the proposed alterations and additions is acceptable subject to Condition C.1. The proposal therefore satisfies Clause 30 (6).

Accordingly, the proposal for the continuation of the current commercial use on the ground floor and extension of this use on the first floor and attic is considered to be acceptable in terms of clause 30 of the Woollahra LEP 1995.

13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

The Woollahra LEP 2014 has come into force on 23 May 2015.
The savings provisions in Part 1.8A of the Woollahra LEP 2014 state that if a development application has been made before the commencement of this Plan and has not been determined, the application must be determined as if this Plan had been exhibited but had not commenced.

The Woollahra LEP 2014 includes the following changes relevant to the subject site:

- Change of the land use zoning to R2 Low Density Residential from the existing Residential 2 (a) zone.

Whilst not determinative to the overall assessment of this application, this assessment against the relevant provisions of the Woollahra LEP 2014 is still included and has been considered as part of this assessment report.

14. PADDINGTON HERITAGE CONSERVATION AREA DEVELOPMENT CONTROL PLAN 2008

14.1. Part 4.1.1: Principal Building Form

As advised by Council’s Heritage Officer the proposal will maintain the principal building form with no significant impact subject to the imposition of the following conditions:

C.1 (a) The paint finish to the existing brickwork is to be removed using an organic solvent equal to methylene chloride or appropriate alternative non-caustic paint remover recommended by the applicant’s nominated heritage consultant. This condition has been imposed to ensure compliance with objective O3 and control C2 of Part 4.1.1 of the Paddington Heritage Conservation Area Development Control Plan 2008.

Council’s Heritage Officer recommended a special condition to be imposed requiring the retention of the staircase to the principal building form on the grounds the existing stair is highly significant fabric, being original and distinctive joinery that demonstrates an association with Edwardian era customs and aesthetics.

Notwithstanding this, it should be noted that under subdivision 26 of the SEPP (Exempt and Complying Development Codes) 2008, alterations to internal stairs are classified as an exempt development and as such the stairs could be altered or removed without development consent even if a condition of consent was imposed on the subject development application. As such, Council’s planning staff has not imposed such a condition. Further, it is considered the removal of the stairs will improve the functionality of the principal building form at the ground floor level.

The proposal is therefore acceptable with regard to Part 4.1.1 of the PHCA-DCP 2008.

14.2. Part 4.1.2: Side Elevations to Streets and Lanes

The relevant objectives and controls are:

Objectives

O1 To retain the architectural character of side elevations of significant buildings.

O2 To ensure that side additions are of sympathetic design and construction to the original building.
Controls

C1 Original side elevations of significant buildings including original fabric, side entrance doors, windows, balconies and other details are to be retained and conserved.

C2 Minor alterations to a side elevation behind will be permitted if they do not significantly impact on the architectural form and the pattern of openings of the principal building form.

C3 Changes to the roof pitch of the principle building form of significant buildings are not permitted.

C4 Additions must be consistent with traditional patterns and proportions of openings and the materials and detailing of the existing building.

C5 The overall length of any addition is to be less than and appear as a form secondary to the existing building.

C6 The addition of balconies is not permitted when the building is built to the side street boundary.

C7 Additions must retain the profile of existing traditional party walls and their associated parapets.

C8 Additions shall reflect the existing setbacks.

C9 Side boundary fencing shall reference traditional height, forms and materials.

The proposal as amended responds appropriately to the existing building and streetscape as advised by Council’s Heritage Officer who provides inter alia:

- The existing rear wing and associated setbacks are to be retained,
- The proposed openings in the southern side elevation of the existing rear wing have been reduced in size while the existing windows on the side elevation of the first floor are proposed to be retained. The revised design makes appropriate reference to the solid to void ratios found in Federation era buildings in the heritage conservation area,
- The height of the proposed rear addition has been reduced so that it does not exceed the height of the existing rear wing roof ridge. The proposed rear addition would appear as a pavilion form that responds to the hierarchy of built form across the site and in the greater historic context,
- The proposed metal palisade fence would enclose the side yard in a manner that is consistent with the treatment of side yards in Federation era corner terrace houses and commercial structures. It would also help to screen the new works to the southern elevation of the existing rear wing from view,
- The openings in the brickwork in the proposed masonry wall along the side and rear elevation would provide a sense of visual connection between the public and private domain, and help to reduce the apparent bulk of the masonry wall. In this context, dominated by masonry structures and landscape elements, a permeable masonry fence is acceptable.
The proposal is therefore acceptable with regard to Part 4.1.2 of the PHCA-DCP 2008.

14.3. Part 4.1.3: Rear Elevations, Rear Additions, Significant Outbuildings and Yards

<table>
<thead>
<tr>
<th>Height of Rear Addition to Two Storey Building</th>
<th>Existing</th>
<th>Proposed</th>
<th>Control</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chimneys</td>
<td>Below Gutterline of Main Roof</td>
<td>Below Gutterline of Main Roof</td>
<td>Below Gutterline of Main Roof</td>
<td>Yes</td>
</tr>
</tbody>
</table>

* Refer to recommended Condition C.1 (c).

The relevant objectives and controls are:

Objectives

O1  To retain the forms and character of traditional rear elevations of significant buildings, particularly where they exist in unaltered groups.

O2  To ensure that rear alterations and additions are of sympathetic design and construction.

O4  To enable sympathetic contemporary design and use of contemporary materials in appropriate circumstances.

Controls

C2  The height of an alteration and addition to the rear of a double storey or higher building must be below the gutter line of the main roof of the existing building.

C4  The roof of an extension or the new roof for an existing component must be of traditional form appropriate to the building type.

C5  Roofs must be visible and not screened partly or wholly by features such as parapets. The exception may be corner sites.

C6  Alterations and additions at the rear of buildings must:

a)  Not dominate or otherwise adversely compete with the form, height, proportions and the scale of that part of the building which is to be retained

b)  Not reproduce or match a building which in terms of its height, bulk, scale and detailing is inappropriate to the heritage character of the area

c)  Retain traditional solid to void ratios on elevations visible from the public domain;

d)  Not employ large areas of glass on upper levels

e)  Be designed to minimise or avoid an adverse impact on neighbouring properties in terms of overlooking, loss of sunlight and ventilation

f)  Not extend beyond the predominant rear building setbacks at any level of a group or row of buildings

g)  Retain all original chimneys

C7  Building boundary to boundary on the ground floor level is permissible provided that:

a)  The development does not adversely affect the privacy, ventilation, light and the amenity of the adjoining properties
b) The development does not disrupt an existing pattern of a group of unaltered significant buildings

C10 Sympathetic contemporary design may be permitted at the rear where:

a) Intrusive fabric or fabric of low significance exists
b) The proposal will achieve an aesthetically cohesive relationship between new and existing fabric
c) The proposal is consistent with the character of the site, the streetscape and the precinct in which it is contained

The proposal as amended responds appropriately to the above objectives and controls for the following reasons:

- The rear elevation is not part of a pair or row group,
- As advised by Council’s Heritage Officer, the proposal as amended is sympathetic in design and appropriately uses contemporary materials,
- As advised by Council’s Heritage Officer, the height of the proposed rear addition has been reduced so that it does not exceed the height of the existing rear wing roof ridge. The proposed rear addition would appear as a pavilion form that responds to the hierarchy of built form across the site and in the greater historic context,
- The rear wing includes a mixture of side sloping and parapet roof forms which is considered acceptable as the site is located on a corner,
- The proposed rear wing will not dominate or adversely compete with the form, height, proportions of the principal building form,
- The proposal as amended responds appropriately in terms of solid to void ratios on elevations visible from the public domain,
- The solid to void ratio has been amended to better reflect the solid to void ratio of a traditional building,
- The rear wing has been adequately designed to minimise adverse impacts on neighbouring properties in terms of overlooking, solar access and ventilation,
- The building is not part of a pair or row group, therefore, the proposal is not required to align with the rear building alignment of properties to the north of the site,
- The existing chimney to the rear wing is required to be retained as per recommended condition C.1 (c). Further, the chimney to the principal building form will be retained as a result of the proposal, and
- The proposal as amended will retain the existing chimney to the principal building form.

The proposal is therefore acceptable with regard to Part 4.1.3 of the PHCA-DCP 2008.

14.4. Part 4.1.4: Roofs and Roof Forms

<table>
<thead>
<tr>
<th></th>
<th>Existing</th>
<th>Proposed</th>
<th>Control</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Transparent Material to Rear Roof Planes</td>
<td>&lt; 25%</td>
<td>&lt; 25%</td>
<td>25%</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The proposed roof form responds appropriately to the context of the building. The area of the proposed skylights is less than 25% of the rear roof planes complying with control C10. The proposal is therefore acceptable with regard to Part 4.1.4 of the PHCA-DCP 2008.
14.5. Part 4.1.5: Site coverage, setbacks and levels

<table>
<thead>
<tr>
<th>Building Footprint</th>
<th>Existing</th>
<th>Proposed</th>
<th>Control</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Consistent with Similar Properties</td>
<td>Consistent with Similar Properties</td>
<td>Consistent with Similar Properties</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The proposed siting, setback and levels of the proposed additions respond appropriately to the principal building form and development in the immediate vicinity of the site. The existing site level will generally be retained. The proposal will maintain a building footprint consistent with other commercial development within the vicinity of the site. The rear building alignment is greater than that of properties to the north of the site, however, this is considered acceptable as properties to the north of the site are residential and are part of a row group whereas the subject building is a stand-alone building and is not part of a row group. The proposal is therefore acceptable with regard to Part 4.1.5 of the PHCA-DCP 2008.

14.6. Part 4.1.6: Excavation

The proposal is acceptable with regard to Part 4.1.6 of the PHCA-DCP 2008.

14.7. Part 4.1.7: Open Space, Swimming Pools, Lightwell Courtyards and Landscaping

Part 4.1.7 of the PHCA-DCP 2008 only sets out private open space and deep soil landscape area requirements for residential uses. As the proposal is for a commercial office use it is not subject to any minimum private open space and deep soil landscape area requirements. The proposal is therefore acceptable with regard to Part 4.1.7 of the PHCA-DCP 2008.

14.8. Part 4.1.8: Building Height, Bulk, Form and Scale

<table>
<thead>
<tr>
<th>Height of Existing Building at Street Frontage</th>
<th>Existing</th>
<th>Proposed</th>
<th>Control</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintain Existing Height</td>
<td>Maintain Existing Height</td>
<td>Maintain Existing Height</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Solar Access to Private Open Space of Adjoining Properties</td>
<td>&gt; 50% for 3 hours between 9am and 3pm on June 21</td>
<td>&gt; 50% for 3 hours between 9am and 3pm on June 21</td>
<td>50% for 3 hours between 9am and 3pm on June 21</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The proposal will maintain a height, bulk, form and scale consistent with the predominant height, bulk, form and scale of the adjoining buildings. There will be no impacts to the adjoining properties in terms of solar access. The proposal is therefore acceptable with regard to Part 4.1.8 of the PHCA-DCP 2008.

14.9. Part 4.1.9: Views

The proposal will not impact upon any significant public or private views. The proposal is acceptable with regard to Part 4.1.9 of the PHCA-DCP 2008.

The proposed first floor rear facing balcony and side facing roof terrace are considered to have been adequately designed with regard to the amenity of adjoining and adjacent properties. It is noted that the combined outdoor area at the first floor level is modest at 7.6m² and is also accompanied by screening to side elevations. The potential for direct overlooking of the private open space and habitable rooms at No. 4 Cascade Street, Paddington will be reduced having regard to the privacy screening incorporated into the design. The proposal is therefore acceptable with regard to Part 4.1.10 of the PHCA-DCP 2008.

14.11. Part 4.2.1: Dormer Windows and Skylights

To ensure the skylights to the rear wing roof form are a low profile and flush with the roof surface, Council’s Heritage Officer has recommended condition C.1 (b):

\[
C.1 (b) \quad \text{All new skylights are to be low profile, flush to the roof surface, with a colour finish to match the existing roofing material. This condition has been imposed to ensure compliance with control C27 of Part 4.2.1 of the Paddington Heritage Conservation Area Development Control Plan 2008.}
\]

The proposal is therefore acceptable with regard to Part 4.2.1 of the PHCA-DCP 2008.

14.12. Part 4.2.2: Chimneys

The chimney to the principal building form will be retained as a result of the proposal. The building presently has an original chimney forming part of the existing rear wing which has not been shown on the architectural plans. Therefore, condition C.1 (c) is recommended and shall read as follows:

\[
C.1 (c) \quad \text{In accordance with objective O1 and control C6 of Part 4.1.3 and objective O1 and control C1 of Part 4.2.2 of the Paddington Heritage Conservation Area Development Control Plan 2008 the original chimney-stack projecting above the roof to the rear wing shall be retained.}
\]

The proposal is therefore acceptable with regard to Part 4.2.2 of the PHCA-DCP 2008.

14.13. Part 4.2.3: Windows, Doors and Shutters and Security

The proposal has been amended by reducing the extent of glazing to the southern side elevation of the existing rear wing. The amendments achieve more acceptable solid to void ratio, vertical proportion and visual appearance upon the streetscape. A greater amount of glazing is incorporated into the rear pavilion structure which is considered acceptable as it is screened by brickwork reducing the visibility of the glazing from the streetscape. The proposed contemporary rear wing addition achieves an aesthetically cohesive relationship between the new and existing fabric. The existing windows and associated detailing to the principal building form is recommended to be retained as per recommended condition C.1 (d) which provides:

\[
C.1 (d) \quad \text{The existing window frames and associated detailing shall be retained to the principal building form. This condition has been imposed to ensure compliance with the relevant objectives and controls of Part 4.1.1 and Part 4.2.3 of the Paddington Heritage Conservation Development Control Plan 2008.}
\]
Further, Council’s Heritage Officer recommended the following additional condition:

\[ C.1 \text{(g)} \quad \text{All new windows and doors to the rear wing are to be paint finish timber or steel framed. This condition has been imposed to ensure compliance with objective O2 and controls C4 and C7 of the Paddington Heritage Conservation Area Development Control Plan 2008.} \]

The proposal is therefore acceptable with regard to Part 4.2.3 of the PHCA-DCP 2008.

14.14. Part 4.2.4: Verandahs and Balconies

The proposed first floor rear facing balcony and side facing roof terrace have been designed with regard to the amenity of adjoining and adjacent properties. The proposed roof terrace includes adequate privacy screening to reduce the potential for direct overlooking of adjoining residential properties. The proposal is therefore acceptable with regard to Part 4.2.4 of the PHCA-DCP 2008.

14.15. Part 4.2.5: Fences, walls and gates

<table>
<thead>
<tr>
<th>Control</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.8m</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The boundary fencing is shown as 1.8m resulting in an acceptable impact upon the streetscape. The proposal is therefore acceptable with regard to Part 4.2.5 of the PHCA-DCP 2008.

14.16. Part 4.2.8: Materials, Finishes and Details

The proposed new materials, finishes, textures and details are considered appropriate to the building and visual amenity of the heritage conservation area. The proposal is therefore acceptable with regard to Part 4.2.8 of the PHCA-DCP 2008.

14.17. Part 4.2.11: Gardens and trees

As advised by Council’s Trees and Landscaping Officer the proposal is acceptable in terms of the impact on the Peppercorn Tree subject to recommended condition C.1 \(f\). The proposal is acceptable with regard to Part 4.2.11 of the PHCA-DCP 2008.

14.18. Part 4.3.6: Building Type Controls (Corner Shops and Corner Commercial Buildings)

The proposal is acceptable with regard to Part 4.3.6 of the PHCA-DCP 2008.

15. PARKING DEVELOPMENT CONTROL PLAN 2011

Part 2.1 of the Parking DCP 2011 specifies the minimum parking requirements as follows:

<table>
<thead>
<tr>
<th>Use</th>
<th>Area</th>
<th>Rate</th>
<th>Multiplier</th>
<th>Number of spaces required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing: Retail Use (Ground Floor Only)</td>
<td>100.4m²</td>
<td>3.3 spaces per 100m²</td>
<td>-</td>
<td>3 spaces (rounded down)</td>
</tr>
<tr>
<td>Proposed: Office Use (Ground Floor, First Floor &amp; Attic)</td>
<td>354.5m²</td>
<td>2.5 spaces per 100m²</td>
<td>-</td>
<td>9 spaces (rounded up)</td>
</tr>
<tr>
<td><strong>Net Change</strong></td>
<td></td>
<td></td>
<td></td>
<td>+ 6 spaces</td>
</tr>
</tbody>
</table>
The former retail use to the ground floor had an area of 100.4m$^2$. The Parking DCP 2011 requires that retail uses provide on-site vehicle parking at a generation rate of 3.3 spaces/100m$^2$ resulting in a requirement for 3 on-site parking spaces (rounded down). The site presently has no on-site vehicle parking and is therefore non-compliant with the minimum requirements of the Parking DCP 2011.

The proposed office use to the ground floor, first floor and attic has an area of 354.5m$^2$. The Parking DCP 2011 requires that office uses provide on-site vehicle parking at a generation rate of 2.5 spaces per 100m$^2$ resulting in a requirement for 9 on-site parking spaces (rounded up). It is not proposed to include any on-site vehicle parking under this development application; therefore, the proposal is non-compliant with the minimum requirements of the Parking DCP 2011. Notwithstanding this, the non-compliance is considered acceptable for the following reasons:

- A Car Parking Statement was lodged by GSA Planning and provides justification for the non-compliance in the provision of onsite parking. Council’s Traffic Engineer Officer has reviewed the statement and determined that the proposal is acceptable,
- The site is located in close proximity to Oxford Street, Paddington which is well serviced by Sydney Buses,
- The office will predominantly operate during the day when residents are at work, as such, parking is therefore more readily available during these hours,
- The car parking demands of visitors/ employees to the office will be adequately absorbed into the surrounding streets where on-street parking is available,
- The car parking demands of visitors/ employees are subject to existing signposted parking restrictions which encourage turnover of vehicles which do not display a parking permit,
- The provision of a compliant amount of on-site vehicle parking spaces (9) would have an adverse impact on the existing building, the setting of surrounding buildings and the amenity of the Paddington Heritage Conservation Area,
- Non-compliance with the Parking DCP 2011 is not unusual in the Paddington Heritage Conservation Area, where, compliance with minimum on-site vehicle parking requirements is difficult to achieve due to heritage conservation area concerns and general site constraints, and
- The expected trip generation rate for the proposed development will be comparable to that of existing business related activities in the locality (i.e. William Street/ Hopetoun Street, Paddington).

Accordingly, the proposal is considered acceptable in this regard despite the non-compliance with the Parking DCP 2011.

16. WASTE NOT DEVELOPMENT CONTROL PLAN 2010

The Waste Not DCP is applicable to all development and seeks to establish waste minimisation and sustainable waste management during demolition and construction phases and throughout the ongoing use of the building.

16.1. Site Waste Minimisation and Management Plan (SWMMP)

The applicant provided a SWMMP with the development application dated 20/10/2014. The SWMMP addresses volume and type of waste and recyclables to be generated, storage and treatment of waste and recyclables on site, disposal of residual waste and recyclables and operational procedures for ongoing waste management once the development is complete. The SWMMP was found to be satisfactory.
16.2. Controls for All Development

The proposal is acceptable with regard to the demolition and construction provisions in Sections 3.1.4 and 3.2.4 of the Waste Not DCP 2010.

16.3. Development Specific Controls

The proposal satisfies the requirements of Clause 4.1.4 of the Waste Not DCP 2010.

17. ACCESS DEVELOPMENT CONTROL PLAN 2004

The proposal satisfies the intent of the Woollahra Access DCP 2004.

18. SECTION 94A CONTRIBUTIONS PLAN 2011

In accordance with Schedule 1, a 1% levy applies with the monies being used for a variety of works as outlined in Schedule 2 of the Section 94A Contributions Plan 2011.

<table>
<thead>
<tr>
<th>Cost of Works</th>
<th>Rate</th>
<th>Contribution Payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>$703,500</td>
<td>1%</td>
<td>$7,035</td>
</tr>
</tbody>
</table>

Refer to condition C.2.

19. APPLICABLE ACTS/REGULATIONS

19.1. Demolition of Structures

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires Council to consider Australian Standard AS 2601-2004: The demolition of structures. This is required in by standard condition.

20. THE LIKELY IMPACTS OF THE PROPOSAL

Hours of use

The proposed hours of use are 9.00am to 5.30pm. It is recommended that the proposed trading hours remain the same as those approved under DA 137/1993/1 to ensure there is not additional amenity impact on surrounding residents. In this respect, the condition I.3 is recommended to ensure the hours of use have an acceptable impact on the amenity of the neighbourhood:

I.3 Hours of use

The hours of use are limited to the following:

Monday to Sunday: 9.00am – 5.00pm

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.
Note: Deliveries to or dispatches from the site must not be made outside these hours. Trading Hours may be more onerous than these general hours of use. This condition does not apply to activities such as cleaning which takes place wholly within the building and which are not audible within any adjoining residential dwelling. If internal activities are audible within any adjoining residential dwelling such that they cause a nuisance to the occupants of such dwelling then such internal activities must not occur outside these hours of use. This condition does not restrict the operation of noise pollution laws. Standard Condition: 11

Therefore, the proposal is considered acceptable in this regard.

21. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

22. THE PUBLIC INTEREST

The proposal is in the public interest.

23. CONCLUSION

The proposal is acceptable against the relevant considerations under Section 79C.

24. DISCLOSURE STATEMENTS

Under Section 147 of the Environmental Planning and Assessment Act, 1979 there have been no disclosure statements regarding political donations or gifts made to any Councillor or gifts made to any council employee submitted with this development application by either the applicant or any person who made a submission.

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

THAT the Council, as the consent authority, is of the opinion that the objection under State Environmental Planning Policy No. 1 – Development Standards to the height (9.5m) development standards under the Woollahra LEP 1995 is well founded. The Council is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as the development responds appropriately to the context of surrounding development and the streetscape, will not have unreasonable adverse amenity impacts on adjoining properties and will achieve the objectives of the height development standard.

AND

THAT the Council, as the consent authority, being satisfied that the objection under SEPP No. 1 is well founded and also being of the opinion that the granting of consent to Development Application No. 447/2014 is consistent with the aims of the Policy, grant development consent to DA No. 447/2014 for change of use of the first floor from residential to a commercial office; alterations and additions to the existing building including a new two storey addition with link structure to the rear of the site and new fencing on land at 2 Cascade Street Paddington, subject to the following conditions:
A. General Conditions

A.1 Conditions

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

Standard Condition: A1

A.2 Definitions

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

Applicant means the applicant for this Consent.

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

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

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

Council means Woollahra Municipal Council

Court means the Land and Environment Court

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

Stormwater Drainage System means all works, facilities and documentation relating to:
- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

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

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

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

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

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

**Road** has the same 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*

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

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

**Standard Condition: A2**

### A.3 Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with the plans and supporting documents listed below as submitted by the Applicant and to which is affixed a Council stamp “Approved DA Plans” unless modified by any following condition. Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.
### A.4 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.

### A.5 Development Consent is not granted in relation to these matters (front elevation upon Cascade Street)

This approval does not give consent to any works on the Cascade Street elevation of the existing building. A separate Development Consent or Complying Development Certificate and Part 4A Certificates, as appropriate, will need to be obtained prior to such works commencing.

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

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

B.1 Construction Certificate required prior to any demolition

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

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

Standard Condition: B1

B.2 Identification of Hazardous Material

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

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

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

Standard Condition: B6

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

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

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

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

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.
If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

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

Standard Condition: B7

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

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

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

a) **External**

The paint finish to the existing brickwork is to be removed using an organic solvent equal to methylene chloride or appropriate alternative non-caustic paint remover recommended by the applicant’s nominated heritage consultant. This condition has been imposed to ensure compliance with objective O3 and control C2 of Part 4.1.1 of the Paddington Heritage Conservation Area Development Control Plan 2008.

b) **Skylights**

All new skylights are to be low profile, flush to the roof surface, with a colour finish to match the existing roofing material. This condition has been imposed to ensure compliance with control C27 of Part 4.2.1 of the Paddington Heritage Conservation Area Development Control Plan 2008.

c) **Chimney**

In accordance with objective O1 and control C6 of Part 4.1.3 and objective O1 and control C1 of Part 4.2.2 of the Paddington Heritage Conservation Area Development Control Plan 2008 the two original chimney-stacks projecting above the roofs to the principal building form and the rear wing shall be retained.

d) **Existing windows to principal building form**

The existing window frames and associated detailing shall be retained to the principal building form. This includes the retention of the existing shopfront windows, joinery and architectural details (all existing windows). This condition has been imposed to ensure compliance with the relevant objectives and controls of Part 4.1.1, Part 4.2.3 and Part 4.3.6 of the Paddington Heritage Conservation Development Control Plan 2008.

e) **Use of reflective glass/ materials**

Reflective glass/ materials shall not be applied to any existing or proposed windows. This
condition has been imposed to protect the visual amenity of the streetscape.

f) **Peppercorn tree and fencing**

The proposed construction of a masonry wall adjacent to the *Schinus molle var. Areira* (Peppercorn tree) (Tree 1) (within 5m of the base of the tree) shall be deleted from the proposal. Any fence constructed within this zone shall be a lightweight timber structure to a maximum height of 1.8m measured from the adjacent footpath level. This would result in minimal impacts to the tree and be tolerant over a long term of growth in the tree.

g) **Windows and doors**

All new windows and doors to the rear wing are to be paint finish timber or steel framed. This condition has been imposed to ensure compliance with objective O2 and controls C4 and C7 of the Paddington Heritage Conservation Area Development Control Plan 2008.

h) **Stormwater management plans**

The stormwater management plans prepared by Law & Dawson Pty Ltd and dated 18/09/2014 shall be amended so that are architecturally the same as the approved architectural plans as detailed in condition A.3.

i) **Attic to Principal Building Form**

The attic to the principal building form shall be used for storage purposes only.

**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**

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**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.
Building and Construction Industry Long Service Payment

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

How must the payments be made?

Payments must be made by:
- Cash deposit with Council,
- Credit card payment with Council, or
- Bank cheque made payable to Woollahra Municipal Council.

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

How will the section 94A levy be indexed?

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

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Indexed</th>
<th>Council Fee Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>LONG SERVICE LEVY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>under Building and Construction Industry Long Service Payments Act 1986</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Long Service Levy</td>
<td>Contact LSL Corporation or use online calculator</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Property Damage Security Deposit -making good any damage caused to any property of the Council</td>
<td>$17,767</td>
<td>No</td>
<td>T115</td>
</tr>
<tr>
<td>SECURITY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>under section 80A(6) of the Environmental Planning and Assessment Act 1979</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DEVELOPMENT LEVY</td>
<td>under Woollahra Section 94A Development Contributions Plan 2011</td>
<td></td>
<td></td>
</tr>
<tr>
<td>This plan may be inspected at Woollahra Council or downloaded at <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development Levy (Section 94A)</td>
<td>$7,035</td>
<td>Yes, quarterly</td>
<td>T96</td>
</tr>
<tr>
<td>+ Index Amount</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>INSPECTION FEES</td>
<td>under Section 608 of the Local Government Act 1993</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Road/Footpath Infrastructure Inspection Fee</td>
<td>$418</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Security Administration Fee</td>
<td>$185</td>
<td>No</td>
<td>T16</td>
</tr>
<tr>
<td>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</td>
<td>$25,405 plus any relevant indexed amounts and long service levy</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Building and Construction Industry Long Service Payment

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- The bank guarantee is lodged with the Council prior to the issue of the construction certificate; and
- The bank’s obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

How will the section 94A levy be indexed?

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

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

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

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

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

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

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

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

Standard Condition: C5

C.3 Road and Public Domain Works

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

a) Removal of all driveway crossings and kerb laybacks which will be no longer required.
b) Reinstatement of footpath, kerb and gutter to match existing footpath.

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

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

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

Note: See condition K24 in Section K. Advisings of this Consent titled Roads Act Application.

Standard Condition: C13
C.4 Waste Storage - Commercial

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

a) A dedicated and enclosed waste and recycling storage area behind the building line or within non-habitable areas of the building.

*Standard Condition: C14*

C.5 Soil and Water Management Plan – Submission & Approval

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

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

b) “*Managing Urban Stormwater - Soils and Construction*” published by the NSW Department of Housing 4th Edition” (*The Blue Book*).

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

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

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


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

*Standard Condition: C25*

C.6 Structural Adequacy of Existing Supporting Structures

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

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

*Standard Condition: C35*

C.7 Professional Engineering Details

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

The detailed professional engineering plans and/or specifications must include retention of the original chimney-stack projecting above the roof to the rear wing.
Detailed professional engineering plans and/or specifications must be submitted to the Certifying Authority with the application for any Construction Certificate.

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

Standard Condition: C36

C.8 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


Standard Condition: C49

C.9 Building upgrade (Clause 94 of the Regulation)

Council considers pursuant to clause 94 of the Regulation that it is appropriate to require the existing building to be brought into total or partial conformity with the BCA.
The Construction Certificate plans and specification required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation must detail building upgrade works required by this condition.

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

a) That the exit doors shall swing in the direction of egress complying with the requirements of D2.20 of the BCA. The doors shall be operable by single handed downward action or pushing action in accordance with the requirements of D2.21 of the BCA and shall not encroach the street alignment;

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

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

d) That the stairways shall be constructed in accordance with the requirements of Clause D2.13 of the BCA.

e) That portable fire extinguishers shall be provided throughout the building to the requirements of Clause E1.6 of the BCA and the relevant requirements of AS 2444.

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

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

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

Standard Condition: C10

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

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

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

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

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

This condition does not apply:
a) to the extent to which an exemption is in force under the *Home Building Regulation 2004*,
b) to the erection of a temporary building.

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

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

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

Standard Condition: D1

D.2 Adjoining buildings founded on loose foundation materials

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

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

Standard Condition: D6

D.3 Construction Management Plan

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

The principal contractor or owner must submit an application for approval of the Construction Management Plan by Council’s Traffic Engineer and pay all fees associated with the application. The plan must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:

a) Detail the scope of the works to be completed including details of the various stages, e.g. Demolition, Excavation, Construction etc. and the duration of each stage.
b) Identify local traffic routes to be used by construction vehicles.
c) Identify ways to manage construction works to address impacts on local traffic routes.
d) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
e) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access or reversing manoeuvres onto a public road and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.
f) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
g) Provide for the standing of vehicles during construction.

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

i) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).

j) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.

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

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

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

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

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

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

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

D.4 Works (Construction) Zone – Approval & Implementation

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

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

Note: The principal contractor or owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the Clause 22 of the Transport Administration (General) Regulation 2000 to exercise those functions delegated by the Roads and Traffic Authority under Section 50 of the Transport Administration Act 1988.
Note: The enforcement of the works zone is at the discretion of Council’s Rangers and the NSW Police Service. The principal contractor must report any breach of the works zone to either Council or the NSW Police Service.
Standard Condition: D10

D.5 Security Fencing, Hoarding and Overhead Protection

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

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

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

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

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

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

![Diagram]

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

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

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

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

D.6 Site Signs

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

Clause 98A of the Regulation provides:

**Erection of signs**

- For the purposes of section 80A (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- A sign must be erected in a prominent position on any site on which building work, subdivision `work or demolition work is being carried out:
  a. showing the name, address and telephone number of the principal certifying authority for the work, and
  b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  c. stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State’s building laws.”
Clause 227A of the Regulation provides:

**Signs on development sites**

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

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

**Note:** Clause 227A imposes a penalty exceeding $1,000 if these requirements are not complied with.  
**Note:** If Council is appointed as the PCA it will provide the sign to the principal contractor or owner builder who must ensure that the sign is erected and maintained as required by Clause 98A and Clause 227A of the Regulation.

**Standard Condition: D12**

**D.7 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.8 Erosion and Sediment Controls – Installation

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

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

Where there is any conflict The Blue Book takes precedence.

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

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

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

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

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

Standard Condition: D14

D.9 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)

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

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

b) The person having the benefit of the development consent has:
   • Appointed a principal certifying authority for the building work, and
   • Notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and

c) The principal certifying authority has, no later than 2 days before the building work commences:
   • Notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
   • Notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
d) The person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:

- Appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
- Notified the principal certifying authority of any such appointment, and
- Unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- Given at least 2 days’ notice to the council of the person’s intention to commence the erection of the building.

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

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

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

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

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

Standard Condition: D15

D.10 Notification of Home Building Act 1989 requirements

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

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

- In the case of work for which a principal contractor is required to be appointed:
  - the name and licence number of the principal contractor, and
  - the name of the insurer by which the work is insured under Part 6 of that Act,
- In the case of work to be done by an owner-builder:
  - the name of the owner-builder, and
  - if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

Standard Condition: D17
E. Conditions which must be satisfied during any development work

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

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

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

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

This condition does not apply:

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

b) To the erection of a temporary building.

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

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

Standard Condition: E1

E.2 Compliance with Australian Standard for Demolition


Standard Condition: E2

E.3 Compliance with Construction Management Plan

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

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

Standard Condition: E3

E.4 Requirement to notify about new evidence

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

Standard Condition: E4
E.5 Critical Stage Inspections

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

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

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

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

Standard Condition: E5

E.6 Hours of Work – Amenity of the neighbourhood

a) No work must take place on any Sunday or public holiday,
b) No work must take place before 7am or after 5pm any weekday,
c) No work must take place before 7am or after 1pm any Saturday,
d) The following work must not take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday;
   i) Piling;
   ii) Piering;
   iii) Rock or concrete cutting, boring or drilling;
   iv) Rock breaking;
   v) Rock sawing;
   vi) Jack hammering; or
   vii) Machine excavation,

e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday

g) No rock excavation being cutting, boring, drilling, breaking, sawing, jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

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

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

Note: Each and every breach of this condition by any person may be subject to separate penalty infringement notice or prosecution.
Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RTA and Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.

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


Standard Condition: E6

E.7 Public Footpaths – Safety, Access and Maintenance

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

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

b) Not use the road or footway for the storage of any article, material, matter, waste or thing.

c) Not use the road or footway for any work.

d) Keep the road and footway in good repair free of any trip hazard or obstruction.

e) Not stand any plant and equipment upon the road or footway.

f) Provide a clear safe pedestrian route a minimum of 1.5m wide.

g) Protect street name inlays in the footpath which are not to be removed or damaged during development.

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

a) Australian Standard AS 1742 (Set) Manual of uniform traffic control devices and all relevant parts of this set of standards.

b) Australian Road Rules to the extent they are adopted under the Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999.

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

Note: Section 138 of the Roads Act 1993 provides that a person must not:
• erect a structure or carry out a work in, on or over a public road, or
• dig up or disturb the surface of a public road, or
• remove or interfere with a structure, work or tree on a public road, or
• pump water into a public road from any land adjoining the road, or
• connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

Note: Section 68 of the Local Government Act 1993 provides that a person may carry out certain activities only with the prior approval of the council including:
• Part C Management of Waste:
  a. For fee or reward, transport waste over or under a public place
  b. Place waste in a public place
  c. Place a waste storage container in a public place.”

• Part E Public roads:
  a. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway.
b. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.”

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

**E.8 Maintenance of Environmental Controls**

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

a) Erosion and sediment controls,

b) Dust controls,

c) Dewatering discharges,

d) Noise controls,

e) Vibration monitoring and controls, and

f) Ablutions.


**Standard Condition: E11**

**E.9 Support of adjoining land and buildings**

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

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

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

a. the consent of the owners of such adjoining or supported land to trespass or encroach, or

b. an access order under the Access to Neighbouring Land Act 2000, or

c. an easement under section 88K of the Conveyancing Act 1919, or

d. an easement under section 40 of the Land & Environment Court Act 1979 as appropriate.

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

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

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

**Standard Condition: E13**
E.10 Erosion and Sediment Controls – Maintenance

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

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

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


Where there is any conflict The Blue Book takes precedence.

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

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

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

Standard Condition: E15

E.11 Disposal of site water during construction

The principal contractor or owner builder must ensure:

a) Prior to pumping any water into the road or public stormwater system that approval is obtained from Council under section 138(1)(d) of the Roads Act 1993;

b) That water pollution, as defined by the Protection of the Environment Operations Act 1997, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water;

c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

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

Standard Condition: E17
E.12 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

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

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

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

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

Standard Condition: E20

E.13 Placement and use of Skip Bins

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

a) Activity Approval has been issued by Council under section 94 of the Local Government Act 1993 to place the waste storage container in a public place, and
b) Where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules to the extent they are adopted under the Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999.

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

Standard Condition: E21
E.14 Prohibition of burning

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

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

Standard Condition: E22

E.15 Dust Mitigation

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

This generally requires:

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

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

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

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

Standard Condition: E23

E.16 Site waste minimisation and management – Demolition

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

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

a) Footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval

b) Any material moved offsite is transported in accordance with the requirements of the Protection of the Environment Operations Act (1997)

c) Waste is only transported to a place that can lawfully be used as a waste facility

d) Generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by Workcover NSW

e) Evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained

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

Standard Condition: E31

E.17 Site waste minimisation and management – Construction

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

a) The provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work

b) Arrange for the delivery of materials so that materials are delivered ‘as needed’ to prevent the degradation of materials through weathering and moisture damage

c) Consider organising to return excess materials to the supplier or manufacturer

d) Allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation)

e) Clearly ‘signpost’ the purpose and content of the storage areas

f) Arrange contractors for the transport, processing and disposal of waste and recycling. Ensure that all contractors are aware of the legal requirements for disposing of waste.

g) Promote separate collection bins or areas for the storage of residual waste

h) Implement measures to prevent damage by the elements, odour and health risks, and windborne litter

i) Minimise site disturbance and limit unnecessary excavation

j) Ensure that all waste is transported to a place that can lawfully be used as a waste facility

k) Retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, Department of Environment and Climate Change (DECC) or WorkCover NSW

Standard Condition: E32

E.18 Asbestos Removal

Where hazardous material, including bonded or friable asbestos has been identified in accordance with condition B.2 above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

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

Note: This condition is imposed to protect the health and safety of persons working on the site and the public.
Standard Condition: E39

E.19 Classification of Hazardous Waste

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

Note: This condition is imposed to ensure that where hazardous waste will be removed from a site an Asbestos Licensed contractor can definitively determine where the waste may be legally taken for disposal.
Standard Condition: E40

E.20 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with condition E.19 above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

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

E.21 Asbestos Removal Signage

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

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

E.22 Notification of Asbestos Removal

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

Note: This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.
Standard Condition: E43
E.23 Tree Preservation

All persons must comply with Council’s *Tree Preservation Order* (“the TPO”), other than where varied by this consent. The order applies to any tree, with a height greater than 5 metres or a diameter spread of branches greater than 3 metres, is subject to Council’s Tree Preservation Order unless, exempted by specific provisions. Works to be carried out within a 5 metre radius of any tree, subject to the Tree Preservation Order, require the prior written consent of Council.

**General Protection Requirements**

a) There must be no excavation or *work* within the required Tree Protection Zone(s). The Tree Protection Zone(s) must be maintained during all *development work*.

b) Where excavation encounters tree roots with a diameter exceeding 40mm excavation must cease. The *principal contractor* must procure an inspection of the tree roots exposed by a qualified arborist. Excavation must only recommence with the implementation of the recommendations of the qualified arborist or where specific instructions are given by Council's Tree Management Officer in strict accordance with such Council instructions.

c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the qualified arborist or where specific instructions are given by Council's Tree Management Officer in strict accordance with such Council instructions.


E.24 Tree Preservation & Approved Landscaping Works

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

a) The following trees must be retained

- Trees on Private Land

<table>
<thead>
<tr>
<th>Council Ref No</th>
<th>Species</th>
<th>Location</th>
<th>Dimension (metres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><em>Schinus molle var. areira</em> (Peppercorn tree)</td>
<td>rear south west corner of the site.</td>
<td>17</td>
</tr>
</tbody>
</table>

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

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

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

*Note*: New building includes an altered portion of, or an extension to, an existing building. Standard Condition: F1
F.2 Commissioning and Certification of Systems and Works

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

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

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

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

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

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

F.3 Provision of Category 1 Fire Safety Provisions (clause 93 of the Regulation)

A person must not commence occupation or use of the whole or any part of a the building unless such of the Category 1 fire safety provisions as are applicable to the building’s proposed new use are provided.

Note: Category 1 fire safety provision means the following provisions of the BCA, EP1.3, EP1.4, EP1.6, EP2.1, EP2.2 and EP3.2 in Volume One of that Code and P2.3.2 in Volume Two of that Code.

F.4 Fire Safety Certificates

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

a) to commence occupation or use of a new building, or
b) to commence a change of building use for an existing building,
a certifying authority must be satisfied that a final fire safety certificate has been issued for the building.

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

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

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

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

Note: In this condition:
interim fire safety certificate has the same meaning as it has in Part 9 of the Regulation.
final fire safety certificate has the same meaning as it has in Part 9 of the Regulation.
new building has the same meaning as it has in section 109H of the Act.

Standard Condition: F4

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

N/A

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

H.1 Removal of Ancillary Works and Structures

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

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

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

Standard Condition: H12

H.2 Road Works (including footpaths)

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

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

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

Standard Condition: H13

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

1.1 Noise Control

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

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

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

Useful links:
Community Justice Centres—free mediation service provided by the NSW Government
Department of Environment and Conservation NSW, Noise Policy Section web page
New South Wales Government Legislation home page for access to all NSW legislation, including the
Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au
/index.php).
Association of Australian Acoustical Consultants—professional society of noise related professionals
(www.aaac.org.au).

Standard Condition: I56

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

Each year, the owner of a building to which an essential fire safety measure is applicable must
provide an annual fire safety statement to Council and the Commissioner of the NSW Fire
Brigades. The annual fire safety statement must be prominently displayed in the building.
Note: Essential fire safety measure has the same meaning as in clause 165 of the Regulation. Annual fire safety statement has the same meaning as in clause 175 of the Regulation. Part 9 Division 5 of the Regulation applies in addition to this condition at the date of this consent. Visit Council’s web site for additional information in relation to fire safety www.woollahra.nsw.gov.au.

Standard Condition: I22

I.3 Hours of use

The hours of use are limited to the following:

Monday to Sunday: 9.00am – 5.00pm

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

Note: Deliveries to or dispatches from the site must not be made outside these hours. Trading Hours may be more onerous than these general hours of use. This condition does not apply to activities such as cleaning which takes place wholly within the building and which are not audible within any adjoining residential dwelling. If internal activities are audible within any adjoining residential dwelling such that they cause a nuisance to the occupiers of such dwelling than such internal activities must not occur outside these hours of use. This condition does not restrict the operation of noise pollution laws.

Standard Condition: I1

I.4 Attic to Principal Building Form

The attic to the principal building form shall be used for storage purposes only.

J. Miscellaneous Conditions

N/A

K. Advisings

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

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

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

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

Warnings as to potential maximum penalties

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

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

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


Standard Advising: K1

K.2 Dial before you dig

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

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

Standard Advising: K2

K.3 Builders Licences and Owner Builders Permits

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

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


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

Standard Condition: K5
K.4  Building Standards - Guide to Standards and Tolerances

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

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

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


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

Standard Condition: K6

K.5  Workcover requirements

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

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

Standard Condition: K7

K.6  Asbestos Removal, Repair or Disturbance

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

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

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

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

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

Standard Advising: K8

K.7 Lead Paint


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

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

Standard Advising: K9

K.8 Dividing Fences

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

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

Standard Advising: K10

K.9 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr. A Gilderdale Assessment Officer, on (02) 9391 – 7063.
However, if you wish to pursue your rights of appeal in the Land & Environment Court you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

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

Standard Condition: K14

K.10 Release of Security

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

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

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

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

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


Standard Condition: K15

K.11 Recycling of Demolition and Building Material

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

Standard Condition: K17

K.12 Owner Builders

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

Standard Condition: K18
K.13 Pruning or Removing a Tree Growing on Private Property

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

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

Standard Condition: K19

K.14 Roads Act Application

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

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

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

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

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

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

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

Drainage design works must comply with the Council’s 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.

Annexures

1. Plans Elevations Sections
2. Referral Response Development Engineer
3. Referral Response Trees and Landscaping
4. Referral Response Heritage
5. Referral Response Fire Safety
REFERRAL RESPONSE – TECHNICAL SERVICES

Completion Date: 19 November, 2014

FILE NO.: DA 447/2014/1
ADDRESS: 2 Cascade Street PADDINGTON 2021
PROPOSAL: Demolish rear lean to structure; alterations & additions to existing corner shop building including new rear wing; change of use of the first floor from residential to commercial office and new off street parking to the rear

FROM: David Collaguazo - Development Engineer
TO: Mr A Gilderdale

1. ISSUES

   • Parking Assessment

2. DOCUMENTATION

I refer to the following documents received for this report:

   • Architectural Plans, prepare by Madeleine Blanchfield Architects, dated October 2014
   • Survey, prepared by Project Surveyors, dated April 2014
   • Stormwater Disposal Concept Plan, prepared by Law & Dawson Consulting Engineers, dated September 2014.

3. ASSESSMENT

Comments have been prepared on the following. Where Approval is recommended, Conditions of Consent follow at the end of the comments.

   a. Traffic comments

The proposal includes internal and external alterations and additions to the existing terrace and the change of use of the upper level from residential to commercial.

The DA was referred to Council’s Traffic Engineer who requested additional information to be provided with regards to parking requirements with respect to Council’s Parking DCP 2011 for the proposed change of use.

4. RECOMMENDATION

Council’s Development Engineer has determined that insufficient information has been submitted to enable an assessment of the proposal. The following information is required before any further assessment of the application can be undertaken:

   • Parking assessment to be provided by the applicant.
Memorandum

Date 17 November, 2014
File No. Development Applications: 447/2014/1
To Nick Tomkins
CC David
From Mr A Gilderdale
Address 2 CASCADE STREET PADDINGTON 2021

I refer to the memo from the Planning Department dated 30 October 2014 requesting comments in relation to the above.

Traffic Engineering has reviewed:


The Statement of Environmental Effects does not provide sufficient information for an assessment of the development’s parking requirements. As the proposal involves a change of use, the applicant must calculate the parking generated by the current use and the proposed use with respect to Woollahra Council Parking DCP 2011. Calculations should be substantiated with relevant data such as land use types, gross floor areas, bedroom numbers (residential use) and so on.
REFERRAL RESPONSE – TECHNICAL SERVICES

FILE NO: DA 447/2014/1
ADDRESS: 2 Cascade Street PADDINGTON 2021
PROPOSAL: Change of use of the first floor from residential to commercial office; alterations and additions to the existing building; internal modifications; new two storey addition with link structure to the rear of the site and new fencing

FROM: David Collaguazo - Development Engineer
TO: Mr A Gilderdale

1. ISSUES

- None.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Architectural Plans, prepare by Madeleine Blanchfield Architects, dated October 2014
- Survey, prepared by Project Surveyors, dated April 2014

3. ASSESSMENT

Comments have been prepared on the following. Where Approval is recommended, Conditions of Consent follow at the end of the comments.

a. Site Drainage comments

There are no objections to connecting the drainage from the proposed works to the existing stormwater system.

Council’s Technical Services Division is satisfied that adequate provision has been made for the disposal of stormwater from the land it is proposed to develop and complies with the provisions of Clause 25 (2) of WLEP 1995
b. Construction Management Comments

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

c. Impacts on Council Infrastructure comments

The existing driveway located on the northern side of the lot is to be removed and the area restored. The new driveway and layback to be constructed on the southern side of the property is 3.5m wide full width.

The remainder of Council’s assets are in serviceable condition - conditions applied.

d. Traffic comments

Council’s Traffic Engineer has no objection to the proposal. Please refer to Traffic memo attached below.

e. Vehicle Access & Accommodation comments

The access and parking layout is satisfactory complies with AS 2890.1 – No specific conditions required

f. Geotechnical, Hydrogeological and/or Structural comments

The proposed excavation is minor and limited to footings of the new addition at the rear.

Council’s Technical Services has no objection to the proposed excavation on technical grounds.

4. RECOMMENDATION

Council’s Development Engineer has determined that the proposal is satisfactory, subject to the following conditions:

Conditions of Consent

Please note that the standard conditions of consent are generally modified by the Technical Services Division to suit a particular development application. Please ensure all Technical Services conditions of consent are cut and pasted from this document only, and not inserted as standard conditions using the automatically generated (F3) function.

A. General Conditions

A.5 Approved Plans & Supporting documents

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Author/Drawn</th>
<th>Date(s)</th>
</tr>
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<td>SW1-A</td>
<td>Stormwater Management Plan</td>
<td>Law &amp; Dawson</td>
<td>18.09.14</td>
</tr>
</tbody>
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15 56750 Referral Response - Technical Services - DA2014 447 1 - 2 Cascade Street PADDINGTON(2)
A8  Ancillary Aspect of the Development (Repair Damaged Infrastructure)

B. Conditions which must be satisfied PRIOR TO THE DEMOLITION of any building or construction

B.7 Public Road Assets Survey prior to any work/demolition

C. Conditions which must be satisfied PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE

C5  Payment of Security, Levies and Fees

| a) Property Damage Security Deposit ($113) | $17,767 | No     | T113   |
| g) Public Road and Footpath Infrastructure Inspection Fee ($113 Fee) | $418    | No     | T45    |

C13  Road and Public Domain Works

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

a) Full width vehicular crossings having a width of 3.5m in accordance with Council’s standard driveway drawing RF2 (latest amendment).

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

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

e) Reinstatement of footpath, kerb and gutter to match existing.

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

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

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

Note: See condition K24 in Section K. Advisings of this Consent titled Roads Act Application.

Standard Condition C12

C25  Soil and Water Management Plan – Submissions & Approval

C35  Structural Adequacy of Existing Supporting Structures
C.36 Professional Engineering Details
C.45 Parking Facilities
C.49 Stormwater discharge to existing Stormwater Drainage System (Clause 25(2) WLEP 1995)

D. Conditions which must be satisfied PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT WORK

D6 Adjoining buildings founded on loose foundation materials
D9 Construction Management Plan – Approval & Implementation
D.10 Works (Construction) Zone – Approval & Implementation
D.14 Erosion & Sediment Control Installation

E. Conditions which must be SATISFIED DURING ANY DEVELOPMENT WORK

E.3 Compliance with Construction Management Plan
E.7 Public Footpaths – safety, access and maintenance
E.11 Maintenance of Environmental Controls,
E.13 Support of adjoining land and buildings
E.15 Erosion and Sediment Controls – Maintenance
E.17 Disposal of Site water during construction,

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.7 Commissioning & Certification of Systems & Works

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.13 Road Works (including footpaths)

I. Conditions which must be satisfied during the **ONGOING USE OF THE DEVELOPMENT**

   Nil

K. Advisings

   K24 Roads Act Application
Memorandum - Traffic

Date: 27 March, 2015
File No.: Development Applications: 447/2014/1
To: Mr A Gilderdale
CC: David Collaguazo
From: Stephen Calderon
Address: 2 CASCADE STREET PADDINGTON 2021

I refer to the memo from the Planning Department dated 13 March 2015 requesting comments in relation to the above.

Traffic Engineering has reviewed:


The justification provided in the Car Parking Statement for a minor shortfall in the parking requirement, including the existence of frequent bus services in close proximity to the site, the constrained on-street parking situation and a desire to meet a competing requirement of the Paddington DCP with regard to the provision of deep soil landscaping is considered reasonable. Furthermore, local residents are protected by the existing resident parking areas which also encourage turnover of parking for visitors to the area.

Recommendation

Traffic engineering has no objections to the proposed development.

15/3996415 39964 Referral Response - Traffic Engineer - DA2014-447-1 - 2 Cascade Street PADDINGTON(2)
REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: DA 447/2014/1
ADDRESS: 2 Cascade Street PADDINGTON 2021
PROPOSAL: Demolish rear lean to structure; alterations & additions to existing corner shop building including new rear wing; change of use of the first floor from residential to commercial office and new off street parking to the rear
FROM: David Grey - Tree & Landscape Officer
TO: Mr A Gilderdale

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by GSA Planning, dated 15 October 2014
- Survey Plan No.B1602-1, drafted by Project Surveyors, dated 16 April 2014
- Architectural Drawing No. DA 02, DA 07, drawn by Madeleine Blanchfield Architect, dated October 2014
- Stormwater drainage Plan No.2014/217-SW1, drawn by Law & Dawson, dated 18 September 2014
- Arboricultural Construction Impact Assessment, written by George Palmer, dated 10 November 2014

Relevant Control:

- Woollahra Local Environment Plan 1995
- Paddington Heritage Conservation Area Development Control Plan 2008

A site inspection was carried out on: 8 January 2015.

- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites

SUMMARY

- Proposed masonry wall impacts significant Peppercorn tree
- Second tree on site not identified correctly and discounted in its value

COMMENTS
Peppercorn Tree
This proposal would have an unacceptable impact on the root system of a significant specimen of *Schinus molle var. areira* (Peppercorn tree) standing at the rear south west corner of this property. The tree is a valuable specimen that provides a high level of amenity to Paddington Street. This tree is old and less able to tolerate construction impacts than a younger more vigorous tree. Much of its value is in this maturity and aesthetic form. It must be protected and preserved.

The proposal in part is to construct a masonry wall within 100mm of the trunk of the tree. The reporting arborist has recommended that pier and beam construction methods are used adjacent to the tree. I believe this is not achievable given that the proposed wall is a complex curve. There is evidence of an extensive root system at the base of the tree when the tree is inspected from within the rear yard of 2 Cascade Street.

I believe that any attempt to construct a curved masonry wall adjacent to this tree is highly ill-advised. There is a high likelihood that the vulnerable roots and base plate of the tree would be damaged during any construction. There is also a high likelihood that further expansion of the base of the tree would disrupt an inflexible masonry wall. A lightweight panel fence that is less sensitive to any future movements in the tree and is sympathetic to this important tree would be most appropriate.

Rainforest Tree (Tree 2)
This tree has been incorrectly identified as a *Backhousia citriodora* (Lemon-scented Myrtle). Both the leaf form and the bark are not correct for Lemon-scented Myrtle. There is no evidence of flowering or fruiting on the tree to assist identification. It does appear to be in the Myrtaceae plant family, possibly a variety of native Lillipilly. It may be necessary to have the tree identified by the Royal Botanic Gardens to be able to assess its potential size.

This tree has been discounted by the arborist and assessed as being less than 8 metres in height. The Appendix 1 Tree Table (referred to on page 3) has not been supplied. During my site inspection I estimated the tree to be more than 10 metres in height and significant to the streetscape. This tree is significant and its retention should be assessed.

Tibouchina (Tree 3)
This tree has been incorrectly identified as a *Tibouchina*. It is in fact two specimens of *Dracaena fragrans*.

RECOMMENDATIONS
Council’s Tree and Landscape Officer has determined that the proposal is not satisfactory in its current form. Refusal of this application is recommended for the following reasons:

- Proposed masonry wall would have major negative impacts on significant Peppercorn tree.
- Significant rainforest tree (Tree 2) has not been considered for retention.

David Grey
Tree Officer
15 May 2015

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: DA 447/2014/1
ADDRESS: 2 Cascade Street PADDINGTON 2021
PROPOSAL: Change of use of the first floor from residential to commercial office; alterations and additions to the existing building; internal modifications; new two storey addition with link structure to the rear of the site and new fencing
FROM: David Grey - Tree & Landscape Officer
TO: Mr A Gilderdale

I refer to the following documents received for this report:

- Architectural Drawing No. DA02b, prepared by Madeleine Blanchfield Architects, dated 17 February 2015
- Arboricultural Construction Impact Assessment, written by George Palmer, dated 10 November 2014

Relevant Control:
- Woollahra Local Environment Plan 1995
- Paddington Heritage Conservation Area Development Control Plan 2008

Supplied materials reviewed 15 May 2015

- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites

SUMMARY

- Impacts to significant tree are avoidable

COMMENTS

As per my previous referral response of 9 January 2015 I continue to recommend refusal of this proposal in its present form. In landscape terms the proposal appears to be unchanged. The pivotal landscape issue related to the proposal is the potential for damage to the specimen of Schinus molle var. areira (Peppercorn tree) standing at the rear south west corner of the site. The proposed construction of a masonry boundary fence around the base of this tree is highly ill-advised and in no way represent contemporary tree sensitive construction methods. The advice provided in the arborists report advocates the use of pier and beam construction adjacent to the tree but provides no detail of how this unnecessarily complex structure is to be achieved. I continue to recommend the use of tree sensitive lightweight panel fencing of
some description adjacent to the tree. This light weight fence could be constructed on the boundary alignment providing more useable space within the rear yard rather than the proposed wall wrapping around the north side of the trunk and negating much of the space in the rear of the property.

RECOMMENDATIONS

Council’s Tree and Landscape Officer has determined that the proposal is not satisfactory in its current form. Refusal of this application is recommended for the following reasons:

- Construction of the proposed masonry wall adjacent to the Peppercorn tree is completely contrary to tree sensitive construction methods that should be adopted adjacent to this the most significant tree related to the proposal.

David Grey
Tree Officer
23 July 2015

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: DA 447/2014/1

ADDRESS: 2 Cascade Street PADDINGTON 2021

PROPOSAL: Change of use of the first floor from residential to commercial office; alterations and additions to the existing building; internal modifications; new two storey addition with link structure to the rear of the site and new fencing

FROM: David Grey - Tree & Landscape Officer

TO: Mr A Gilderdale

I refer to the following documents received for this report:

- Consulting engineers site sketch, prepared by Law & Dawson, received 2 July 2015

Relevant Control:

- Woollahra Local Environment Plan 1995
- Paddington Heritage Conservation Area Development Control Plan 2008

Supplied materials reviewed 23 July 2015

- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites

SUMMARY

➢ Potential impacts to Peppercorn Tree not accurately represented

COMMENTS

As I have previously advised, I believe the construction of a masonry wall adjacent to the Peppercorn Tree (Tree 1) is not achievable without significant negative impacts to the tree. The supplied Arborists Construction Impact Assessment and the Engineers sketch lack any accurate detail. The engineers sketched plan and section appear to be contradictory in the location of the proposed wall relative to the tree. Also of concern, the engineers sketch shows a beam excavated below ground level adjacent to the tree. This would impact the roots of the tree. The lack of understanding of tree protection issues shown here is of concern.
It is ill-advised and does not represent sympathetic urban design to attempt to construct a masonry wall adjacent to this important tree.

RECOMMENDATIONS

I recommend that the proposed construction of a masonry wall adjacent to the *Schinus molle var. Areira* (Peppercorn tree) (Tree 1) is deleted from the proposal. As I have previously advised, any fence constructed here should be light in weight and based on post and rail construction methods. This would result in minimal impacts to the tree and be tolerant over a long term of growth in the tree.

David Grey  
Tree Officer
28 November 2014

REFERRAL RESPONSE - HERITAGE

FILE NO: DA 447/2014/1

ADDRESS: 2 Cascade Street PADDINGTON 2021

PROPOSAL: Demolish rear lean to structure; alterations & additions to existing corner shop building including new rear wing; change of use of the first floor from residential to commercial office and new off street parking to the rear

FROM: Kate Harrison - Heritage Officer

TO: Mr A Gilderdale

ISSUES
- Demolition of the existing rear wing would not retain or promote evidence of the historical development of the area.
- Demolition of the existing rear wing would impede interpretation of the existing building as part of a collection of buildings that contribute to the historic and aesthetic significance of the Paddington HCA.
- Demolition of the existing rear wing would not retain the distinctive features of building forms in the Paddington HCA.
- The proposed demolition of the existing rear wing would not retain or conserve the original side elevation of the existing building.
- Demolition of the existing rear wing would adversely affect the capacity of the existing building to demonstrate Edwardian era development patterns and architectural taste.
- Major modification of the building form would reduce capacity to interpret the existing building as part of a collection of Victorian and Edwardian era corner shops and commercial buildings with intact rear wings.
- The demolition of the existing rear wing would not retain the existing building form of the corner shop and residence as evidence of the evolution of Paddington.

DOCUMENTATION
The following documentation provided by the applicant has been examined for this referral response:
- Drawing set by madeline blanchfield architects, dated Octo 2014, and numbered DA 01– DA07
- Statement of Environmental Effects by GSA planning, dated 15 October 2014

SITE INSPECTION / RESEARCH
The following research was undertaken in the preparation of this assessment:
- The site was inspected on the 4/12/2014, including the interior and the general locality.

Review of the following documents and photographic evidence:

C:\Users\Adrian\AppData\Local\New flirt\Packard\HPTRIM\TEM\HPTRIM.225\A14 21443 Referral Response - Heritage - DA2014 447 1-2 Cascade Street PADDINGTON.DOCX
• Council’s property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
• Council’s photography files relevant to the immediate area
• Council’s heritage inventory sheets
• Council’s aerial photography and mapping database
• Google Maps – street view

STATUTORY AND POLICY DOCUMENTS
The following statutory and policy documents are relevant to the application:
• Woollahra LEP 1995
• Paddington Heritage Conservation Area DCP 2008

HERITAGE FRAMEWORK
• The subject building is within the Paddington Heritage Conservation Area, and is considered a contributory item.

SIGNIFICANCE OF SUBJECT PROPERTY TO THE CONSERVATION AREA

The existing building at No. 2 Cascade Street is a two storey Edwardian corner shop and residence. The slate truncated hip roof, face brick façade (now obscured by paint work), arch top window openings, splayed corner principal building form and utilitarian rear two storey rear wing are typical to Edwardian era architecture. The interior layout and detailing of the building principal building form is substantially intact and contributes to the aesthetic significance of the building. However, the interior of the rear wing is highly modified and makes little contribution to the building’s aesthetic significance.

As a good example of an Edwardian corner shop and residence, part of a collection of similar commercial/mixed used Edwardian era buildings in Paddington with primarily intact building forms, No. 2 Cascade Street contributes to the aesthetic significance of the Paddington Heritage Conservation Area.

Constructed in 1902 as grocers shop and residence, the physical fabric of the building is evidence of both the suburbanisation and commercial development of Paddington during the late 19th and early 20th century. The allotment proportions, setback, siting and building alignment demonstrate the Late Victorian era subdivision pattern established by the 1898 sale of the Broughton Estate. As evidence of an important historical phase of development in Paddington, No. 2 Cascade Street contributes to the historical significance of the Paddington Heritage Conservation Area.

The building is a representative example of a corner shop/residence constructed in Paddington in the early 20th century.

The existing timber clad and frame outbuilding at the rear of the site is a highly modified form. It is noted that some substantial hardwood posts and beams have been used to construct part of the structure. The hardwood posts and beams may have been salvaged from an earlier structure. However, the outbuilding is not representative of a late 19th or early 20th century shed or outbuilding and is considered to be of little heritage significance.

DESCRIPTION OF PROPOSAL
The following works are proposed:
• Demolition of the existing rear wing
• Demolition of the existing timber outbuilding
• Construction of a rear addition
• Internal alterations to principal building form
• Landscape works

ASSESSMENT OF HERITAGE IMPACT
Compliance with the relevant planning controls
The assessment is made using the following statutory and policy heritage conservation provisions:

Woollahra LEP 1995 Part 1 clause 2(1)(a) and 2(2)(a); Part 4 clause 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 36A; Schedule 3 – Heritage items

- 2(1)(g) The development does not conserve the heritage of Woollahra.
- 2(2)(g)(ii)(iii) The development does not encourage the restoration or reconstruction of buildings which contribute to the conservation area.
- 27 The development will have no impact upon the heritage items within its vicinity.
- 28 This referral constitutes an assessment under this clause. The impact upon the heritage significance of the conservation area will be adverse.

Paddington Heritage Conservation Area DCP 2008 (PHCA DCP 2008)

Part 2.3 Desired future character of the Paddington Heritage Conservation Area

- The existing rear wing is evidence of the Edwardian era development of the Paddington area. Demolition of the existing rear wing would not retain or promote evidence of the historical development of the area.

- Demolition of the existing rear wing would impede interpretation of the existing building as part of a collection of Edwardian corner shop and residence buildings that contribute to the historic and aesthetic significance of the Paddington HCA.

- The rear wing is a significant and distinctive feature of the existing building. Demolition of the existing rear wing would not retain the distinctive features of building forms in the Paddington HCA.

Part 4.1.2 Side Elevations to streets and lanes
Objective: O1
Control: C1

- Part 4.1.2 applies to all significant buildings in the conservation area, not just those that conform to the terrace house typology. The existing rear wing is a significant form and evidence of the original Edwardian era building design. The proposed demolition of the existing rear wing would not retain or conserve the original side elevation of the existing building (Objective O1).

Part 4.1.3 Rear elevations, rear additions, significant outbuildings and yards
Objective: O5
Control: C13

- The existing outbuilding is not a representative example of a Victorian or Edwardian era ancillary building. The existing outbuilding is not considered to be a significant outbuilding. Demolition of the existing outbuilding would have no adverse impact to contribution of the subject site to the aesthetic or historic significance of the heritage conservation area.

Part 4.3.6 Corner shops and corner commercial buildings
Objective: O1
• The physical fabric of both the principal building form and rear wing demonstrate strong
association with early 20th century subdivision and development of Paddington. Demolition
of the existing rear wing would adversely affect the capacity of the existing building to
demonstrate Edwardian era development patterns and architectural taste (Objective O1).

• The existing building form is generally consistent with that of other Late Victorian and
Edwardian era corner shops in the Heritage Conservation area, including No 1. Hopetoun
Street. Demolition of the rear wing is considered to be major modification of the existing
building form. Such major modification of the building form would reduce capacity to
interpret the existing building as part of a collection of Victorian and Edwardian era corner
shops and commercial buildings with intact rear wings. The demolition of the existing rear
wing would not retain the existing building form of the corner shop and residence as
evidence of the evolution of Paddington (Objective O1).

The applicant has argued that the existing building is not a terrace house. For this reason, the
objectives and controls in Part 4.3.2 and 4.3.2 have not been referenced in this report.

RECOMMENDATION

The application is generally unacceptable as it does not comply with the relevant statutory and
policy documents and would have an unsatisfactory impact.

It is recommended that the application be refused for the following reasons:

1. Demolition of the existing rear wing would be inconsistent with Woollahra LEP Part I
Clause 2(1)(g), PHCA DCP Part 2.3, Part 4.1.2 Objective O1 and Control C1 and Part 4.3.6
Objective O1.

It is recommended that the applicant be encouraged to explore options for development that retains
the external form of the existing rear wing and establishes an additional building form at the rear of
the site.

Kate Harrison
Heritage Officer
9 April 2015

REFERRAL RESPONSE - HERITAGE

FILE NO: DA 447/2014/1
ADDRESS: 2 Cascade Street PADDINGTON 2021
PROPOSAL: Change of use of the first floor from residential to commercial office; alterations and additions to the existing building; internal modifications; new two storey addition with link structure to the rear of the site and new fencing

FROM: Kate Harrison - Heritage Officer
TO: Mr A Gilderdale

ISSUES
- The method by which paint will be removed from the façade has not been specified.
- It is proposed to demolish the significant existing principal stair.
- The proposed opening in the South elevation of the rear wing does not make reference to the pattern of openings or solid to void ratios established by the Federation era built form.
- In the absence of a fence across the full length of the side boundary, the visual impact of the proposed modifications to the Southern elevation would be exaggerated.
- The proposed brick wall fencing is inconsistent with Federation and Victorian era fences found in the conservation area.
- The height of the proposed rear addition is greater than the height of the existing rear wing, and does not acknowledge the hierarchy of built form established by the existing building.
- Details of the proposed skylights have not been provided.
- Details of the materiality of the proposed windows and door frames have not been provided.

DOCUMENTATION
The following documentation provided by the applicant has been examined for this referral response:
- Drawing set by madeline blanchfield architects, dated October 2014, and numbered DA00.b – DA07.b

SITE INSPECTION / RESEARCH
The following research was undertaken in the preparation of this assessment:
- The site was previously inspected on the 4/12/2014, including the interior and the general locality.

Review of the following documents and photographic evidence:
- Council’s property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
- Council’s photography files relevant to the immediate area
- Council’s heritage inventory sheets
- Council’s aerial photography and mapping database
STATUTORY AND POLICY DOCUMENTS
The following statutory and policy documents are relevant to the application:
- Woolahra LEP 1995
- Paddington Heritage Conservation Area DCP 2008

HERITAGE FRAMEWORK
- The subject building is within the Paddington Heritage Conservation Area, and is considered a contributory item.

SIGNIFICANCE OF SUBJECT PROPERTY/TO THE CONSERVATION AREA

The existing building at No. 2 Cascade Street is a two storey Edwardian corner shop and residence. The slate truncated hip roof, face brick façade (now obscured by paint work), arch top window openings, splayed corner principal building form and utilitarian rear two storey rear wing are typical to Edwardian era architecture. The interior layout and detailing of the building principal building form is substantially intact and contributes to the aesthetic significance of the building. However, the interior of the rear wing is highly modified and makes little contribution to the building’s aesthetic significance.

As a good example of an Edwardian corner shop and residence, part of a collection of similar commercial/mixed used Edwardian era buildings in Paddington with primarily intact building forms, No. 2 Cascade Street contributes to the aesthetic significance of the Paddington Heritage Conservation Area.

Constructed in 1902 as grocer’s shop and residence, the physical fabric of the building is evidence of both the urbanisation and commercial development of Paddington during the late 19th and early 20th century. The allotment proportions, setback, siting and building alignment demonstrate the Late Victorian era subdivision pattern established by the 1898 sale of the Broughton Estate. As evidence of an important historical phase of development in Paddington, No. 2 Cascade Street contributes to the historical significance of the Paddington Heritage Conservation Area.

The building is a representative example of a corner shop/residence constructed in Paddington in the early 20th century.

The existing timber clad and frame outbuilding at the rear of the site is a highly modified form. It is noted that some substantial hardwood posts and beams have been used to construct part of the structure. The hardwood posts and beams may have been salvaged from an earlier structure. However, the outbuilding is not representative of a late 19th or early 20th century shed or outbuilding and is considered to be of little heritage significance.

DESCRIPTION OF PROPOSAL
The following works are proposed:
- Demolition of existing glazed awning to rear wing
- Demolition of existing timber fence to side and rear boundaries
- Demolition of existing outbuilding in rear yard
- Removal of two small trees from side yard
- New opening at ground floor of rear wing South Elevation
- Installation of new skylights to rear wing roof
- Internal alterations to principal building form including demolition of existing stair in principal building form
- Internal alterations to rear wing including demolition of lateral walls
- Construction of a two storey rear addition

ASSESSMENT OF HERITAGE IMPACT

15 44748 Referral Response - Heritage - DA2014 447 1 - 2 Cascade Street PADDINGTON
Compliance with the relevant planning controls
The assessment is made using the following statutory and policy heritage conservation provisions:

Woollahra LEP 1995 Part 1 clause 2(1)(g) and 2(2)(g); Part 4 clause 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 36A; Schedule 3 – Heritage items

- 2(1)(g) Subject to conditions, the development does conserve the heritage of Woollahra.
- 2(2)(g)(ii)(iii) Subject to conditions, the development does encourage the restoration or reconstruction of buildings which contribute to the conservation area.
- 27. The development will have no impact upon the heritage items within its vicinity.
- 28. This referral constitutes an assessment under this clause. Subject to conditions, the impact upon the heritage significance of the conservation area will be neutral.

Paddington Heritage Conservation Area DCP 2008 (PHCA DCP 2008)

Part 4.1.1 Principal building form
Objectives: O1, O2, O3, O4, O6
Controls: C1, C2, C5, C6, C10

- It is proposed to strip the paint from the façade of the principal building form and restore the original face brick finish to the principal building form. The method by which this will be achieved has not been specified. This process is best undertaken using and organic gel solvent such as methylene chloride, rather than a caustic stripper which may cause substantial damage to the existing brickwork. Subject to the specification of an appropriate paint removal method, the paint removal works would significantly enhance the aesthetic value of the subject building (O3, C2).
- It is proposed to demolish the existing principal stair. The existing stair is highly significant fabric, being original and distinctive joinery that demonstrates association with Edwardian era customs and aesthetics (historical significance) and part of the historic framework of the building. The existing principal stair should be retained and conserved (O11, O12, C5).
- The proposed installation of an additional stair and construction of an attic space in the roof of the principal building form would not involve demolition of any original decorative ceilings or substantial modification to the historic framework of the principal building form.
- The proposed internal modifications to the principal building form are considered to facilitate interpretation of the original building design and room layouts.

Part 4.1.2 Side Elevations to streets and lanes
Objectives: O1, O2
Control: C1, C2, C4, C5, C8, C9

- The South elevation of the existing rear wing is punctuated by three openings, two windows at the first floor and a single window at the ground floor. Traditionally the ground floor window would have been partially concealed by timber fencing along the side boundary. As a result the window did not make a significant contribution to the character of the rear wing as viewed from the public domain. Demolition of this single window is considered to be minor change without major adverse impact to the architectural integrity of the existing building.
- The proposed opening in the South elevation of the rear wing does not make reference to the pattern of openings or solid to void ratios established by the Federation era built form. Any new opening in this location should be broken into sections that make reference to the proportions and solid to void ratios of Edwardian era fenestration and should not exceed a width of 2m (O1, C2).
In the absence of a fence across the full length of the side boundary, the visual impact of the proposed modifications to the Southern elevation would be exaggerated. In order to ensure that the new works are appropriately screened from public view and do not adversely compete with the pattern of openings in the principal building form, a timber or metal palisade fence with a maximum height of 1.8m should be installed along the full length of the side boundary (O1, C9, Part 4.2.5 O2, Table 1).

Subject to the above, the demolition of part of the existing external wall to accommodate new glazed openings in the side elevation behind would not significantly impact on the architectural form or patterns of openings of the principal building form.

The proposed brick wall fencing is inconsistent with Federation and Victorian era fences found in the conservation area. The proposed brick wall should be replaced with a timber paling or metal palisade fence (O1, C9).

Part 4.1.3 Rear elevations, rear additions, significant outbuildings and yards
Objective: O5
Control: C2, C4, C5, C6, C13

- It is proposed to retain the existing residential rear wing of the Edwardian building and construct a two storey addition at the rear, separated from the existing building by a glazed link. This glazed link would be set-down from the gable end of the rear wing, enabling the new form to be appreciated as a separate element from the public domain. The proposed glazed link would achieve an aesthetically cohesive relationship between the new and old fabric by establishing a clear delineation between the old and new forms.

- The proposed rear addition would read as an identifiably contemporary element visually separate from the existing Edwardian building. The rectilinear form of the building is not typical of buildings found in the surrounding historic streetscape. In this case a rectilinear building form with parapet wall is considered acceptable given that building forms with parapet walls (that contribute to the aesthetic value of the streetscape) are found in the vicinity of the subject site.

- The face brick external materiality of the building would make reference to the traditional palate of materials found in Edwardian era buildings in the historic context.

- The height of the proposed rear addition is greater than the height of the existing rear wing. In order to ensure that the rear addition acknowledges the hierarchy of built form established by the existing building, it is recommended that the height of the rear addition be reduced so that the addition does not exceed the height of the existing rear wing ridge (O2, C6).

- Subject to the above, the scale of the proposed building form would appear as less than the scale of the existing building form. As result the proposed rear addition would read as a secondary element and would not adversely compete with the scale of the existing building.

- The proposed openings in the rear elevation of the addition would be vertically proportioned, making reference to the fenestration patterns found in the historic streetscape. The large areas of glazing in the rear elevation would be recessed back from the projecting edge of the balcony structure, reducing the visual impact of this contemporary element when viewed from the street.

- Views to the building form would be softened by the retention of the existing significant Weeping Willow at the side boundary and side boundary fencing. Subject to the above height revision, the proposed contemporary building form would read as part of a collection of diverse building types found along Cascade Street and would not dominate the historic streetscape.

- The existing outbuilding is not a representative example of a Victorian or Edwardian era ancillary building. The existing outbuilding is not considered to be a significant outbuilding.
Demolition of the existing outbuilding would have no adverse impact to contribution of the subject site to the aesthetic or historic significance of the heritage conservation area.

Part 4.3.6 Corner shops and corner commercial buildings
Objective: O1, O2, O3

- The proposed development would facilitate retention of the physical fabric of both the principal building form and rear wing, both of which demonstrate strong association with early 20th century subdivision and development of Paddington.
- The existing building form is a representative example an Edwardian era corner shop, similar to several found in the Heritage Conservation area, including No 1. Hopetoun Street. It is noted that the subject building and the corner shop building at No. 1 Hopetoun Street share stylistic similarities and may have been constructed as a pair. However, no evidence has been uncovered to suggest that the subject site contained a similar stable building at the rear. Replication of the form of the stable building at the rear of the subject site would be conjectural and would likely undermine the conservation of the significant Weeping Willow.
- The proposed rear addition is not considered to lessen ability to appreciate the subject building as part of a collection of Victorian and Federation era corner shop buildings that are evidence of the evolution of Paddington.

Part 4.2.1 Dormer and skylights
Objective: O1
Controls: C27, C29

- The proposed skylights would be discretely located in the northern pitch of the existing rear wing roof. Although the area of glazing would exceed 25% of the pitch, the skylights would not be visible from the public domain and the majority of the rear wing roof form structure and material would be retained. For this reason, non-compliance with Control C29 is supported. Details of the proposed skylights have not been provided. Any new skylights should be low profile, flush to the roof surface, with a colour finish to match the existing roofing material (C27).

Part 4.2.8 Materials, finishes and details
Objectives: O1, O2, O3
Controls: C4, C7

- The proposed partially open external brick screen is considered to make material reference to Edwardian era construction, whilst employing contemporary design techniques. The proposed brick screen is considered to be appropriate to be a high quality design element that makes contextual reference to the surrounding historic development.
- Details of the materiality of the proposed windows and door frames have not been provided. In order to ensure that the new materials do not adversely compete with the historic character of the existing building and surrounding development, all new windows and doors should be paint finish timber framed or steel framed (C4, C7).

Part 2.3 Desired future character of the Paddington Heritage Conservation Area

- The proposed development would facilitate retention of the principal building form and original rear wing as evidence of the historical development of Paddington.
- Subject to the revisions recommended above, the proposed rear wing addition would complement the low scale, high density built form characteristic of the Paddington HCA.
RECOMMENDATION

Subject to conditions, the application would be acceptable and comply with the Objectives of the Paddington HCA and Woollahra LEP. It is recommended that consent be granted subject to the following conditions:

1. In order to comply with PHCA Part 4.1.1 Objective O3 and Control C2, the paint finish to the existing brickwork is to be removed using an organic solvent equal to methylene chloride or appropriate alternative non-caustic paint remover recommended by the applicant’s nominated heritage consultant.

2. In order to comply with PHCA Part 4.1.1 Objective O11, O12, Control C5, the existing stair in the principal building form is not to be demolished. The stair is to be retained and conserved.

3. In order to comply with PHCA DCP Part 4.1.2 Objective O1, Control C2, the opening in the Southern elevation of the existing rear wing is to be reduced to form two openings in the existing masonry wall, each with a maximum width of 1.8m. A section of masonry with a minimum width of 1m is to be retained between the two openings. The openings are to be divided into two vertically proportioned halves (leafs or panes), without horizontal mullions.

4. In order to comply with PHCA DCP Part 4.1.2 Objective O1, Control C9 and Part 4.2.5 O2, Table 1, a timber paling or metal palisade fence with a minimum height of 1.5m and a maximum height of 1.8m is to be installed along the full length of the side boundary and rear boundary. The proposed brick boundary wall is not to be installed (O1, C9, Part 4.2.5 O2, Table 1).

5. In order to comply with PHCA DCP Part 4.1.3 Objective O2, Control C6 the height of the rear addition is to be reduced so that the addition does not exceed the height of the existing rear wing roof ridge.

6. In order to comply with PHCA DCP Part 4.2.1 Control C27, all new skylights are to be low profile, flush to the roof surface, with a colour finish to match the existing roofing material.

7. In order to comply with PHCA DCP Part 4.2.8 Objective O2, Controls C4, C7 all new windows and doors are to be paint finish timber framed or steel framed.

Kate Harrison
Heritage Officer
Hi Adrian,

The documentation I reviewed did not illustrate removal of the rear wing chimney or principal building form windows. I would support conditions of consent that clarify that these elements are not to be removed. I recommend that the condition of consent for the window read as follows:

All existing windows, window frames, sashes, glazing bars and sills to the principal building form are to be retained. The existing front door and transom window to the principal building form is to be retained.

I would also support a condition requiring that all new glass be non-reflective.

Kind Regards

Kate Harrison
Heritage Officer
Woollahra Municipal Council
536 New South Head Road, Double Bay NSW 2028
p 02 9391 7084
w www.woollahra.nsw.gov.au e kate.harrison@woollahra.nsw.gov.au

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From: Adrian Gilderdale
Sent: Monday, 29 June 2015 4:47 PM
To: Kate Harrison
Subject: 2 Cascade Street, Paddington (DA 447/2014/1) - Kerry Huxley Requests

Dear Kate,

1. Request to retain chimney to rear wing.
2. Request to retain windows to principal building form.
3. Request no reflective glass.

Are you ok if I condition to resolve all 3?
Kind regards,
Adrian Gilderdale

From: Kate Harrison
Sent: Thursday, 18 June 2015 17:10
To: Adrian Gilderdale
Cc: George Fotis
Subject: 2 Cascade Street Paddington

Adrian,

Re: Revised drawing set by Madeline Blanchfield Architects, numbered DA00C – DA10C.

Comments:
- The proposed openings in the Southern elevation of the existing rear wing would appear to be vertically proportioned elements that would not compromise the integrity of the existing rear wing. The revised design makes appropriate reference to the solid to void ratios found in Federation era buildings in the conservation area.
- The height of the proposed rear addition has been reduced so that it does not exceed the height of the existing rear wing roof ridge. The proposed rear addition would appear as pavilion form that responds to the hierarchy of built form across the site and in the greater historic context.
- The proposed metal palisade fence would enclose the side yard in a manner that is consistent with the treatment of side yards in Federation era corner terrace houses and commercial structures and help to screen the new works to the Southern elevation of the existing rear wing from view.
- The openings in the brickwork in the proposed 1.8m high masonry wall along the side and rear elevation would provide a sense of visual connection between the public and private domain, and help to reduce the apparent bulk of the masonry wall. In this context, dominated by masonry structures and landscape elements, a permeable masonry fence is acceptable.

It is recommended that consent be granted subject to the following conditions:
1. In order to comply with PHCA Part 4.1.1 Objective O3 and Control C2, the paint finish to the existing brickwork is to be removed using an organic solvent equal to methylene chloride or appropriate alternative non-caustic paint remover recommended by the applicant’s nominated heritage consultant.
2. In order to comply with PHCA Part 4.1.1 Objective O11, O12, Control C5, the existing stair in the principal building form is not to be demolished. The stair is to be retained and conserved.
3. In order to comply with PHCA DCP Part 4.2.1 Control C7, all new skylights are to be low profile, flush to the roof surface, with a colour finish to match the existing roofing material.
4. In order to comply with PHCA DCP Part 4.2.8 Objective O2, Controls C4, C7 all new windows and doors are to be paint finish timber framed or steel framed.

Kind Regards

Kate Harrison
Heritage Officer
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Our Values: Respect for People | Integrity and Excellent Performance | Professional Quality Service | Open Accountable Communication
Completion Date: 13 March 2015

REFERRAL RESPONSE – FIRE SAFETY

FILE NO: DA 447/2014/1
ADDRESS: 2 Cascade Street PADDINGTON 2021
PROPOSAL: Change of use of the first floor from residential to commercial office; alterations and additions to the existing building; internal modifications; new two storey addition with link structure to the rear of the site and new fencing
FROM: Richard Smith - Fire Safety Officer
TO: Mr A Gilderdale

1. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced change of use & alterations & additions prepared by gsa planning, dated 15 October 2015.
- Architectural Plans, referenced DA00, DA01, DA02, DA03, DA04, DA05, DA06 & DA07, prepared by madeleine blanchfield architects, dated October 2014.

2. RESEARCH

The following research was undertaken in the preparation of this assessment:

- A site inspection was carried out on the following date: 13 March 2015

3. LEGISLATION

A Building Code of Australia (BCA) assessment of this development application is required to satisfy the following statutory provisions of the Environmental Planning & Assessment Regulation 2000.

- Clause 94 – ‘Consent authority may require buildings to be upgraded’

  - Compliance with the BCA if more than 50% of the volume has been changed in the last 3 years
  - Fire safety – to protect persons using the building and facilitate their egress from the building as well as restricting the spread of fire from the building to other buildings
4. BUILDING DESCRIPTION

Type of Construction: C

Class:
- Ground floor - 5
- First floor - 5

Number of Storeys: 2

Rise in Storeys: 2

5. ASSESSMENT

Comments have been prepared on the following. Where Approval is recommended, Conditions of Consent follow at the end of the comments.

6.1 Clauses of BCA referenced:

- Swing of doors Clause D2.20 of the BCA
- Single action door handle Clause D2.21 of the BCA
- Emergency lighting Clause E4.2 of the BCA
- Exit & directional signage Clauses E4.5, E4.6 and E4.8 of the BCA
- Stair construction Clause D2.13 of the BCA
- Portable fire extinguishers Clause E1.6 of the BCA

6. RECOMMENDATION

Council's Fire Safety Officer has determined that the proposal is satisfactory, subject to the following conditions:

A. General Conditions

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

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

C.1 Building upgrade (Clause 94 of the Regulation)

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

The Construction Certificate plans and specification required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation must detail building upgrade works required by this condition.
The Certifying Authority must be satisfied that such work, to be implemented as part of the development, will upgrade the building to bring it into compliance with the following provisions of the BCA as in force at the date of the Construction Certificate application:

a) That the exit doors shall swing in the direction of egress complying with the requirements of D2.20 of the BCA. The doors shall be operable by single handed downward action or pushing action in accordance with the requirements of D2.21 of the BCA and shall not encroach the street alignment;

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

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

d) That the stairways shall be constructed in accordance with the requirements of Clause D2.13 of the BCA.

e) That portable fire extinguishers shall be provided throughout the building to the requirements of Clause E1.6 of the BCA and the relevant requirements of AS 2444.

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

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

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

Standard Condition: C10

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

E. Conditions which must be satisfied during any development work

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 Provision of Category 1 Fire Safety Provisions (clause 93 of the Regulation)

A person must not commence occupation or use of the whole or any part of a the building unless such of the Category 1 fire safety provisions as are applicable to the building’s proposed new use are provided.
F.2 Fire Safety Certificates

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

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

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

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

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

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

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

Note: In this condition:
interim fire safety certificate has the same meaning as it has in Part 9 of the Regulation.
final fire safety certificate has the same meaning as it has in Part 9 of the Regulation.
new building has the same meaning as it has in section 109H of the Act.

Standard Condition: F4

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

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

I. Conditions which must be satisfied during the ongoing use of the development
I.1 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)

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

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

J. Miscellaneous Conditions

K. Advisings

Nil

Richard Smith
Fire Safety Officer

Date: 13 March 2015
DEVELOPMENT APPLICATION ASSESSMENT REPORT

<table>
<thead>
<tr>
<th>ITEM No.</th>
<th>D3</th>
</tr>
</thead>
<tbody>
<tr>
<td>FILE No.</td>
<td>DA 238/2015/1</td>
</tr>
<tr>
<td>ADDRESS</td>
<td>6/276 New South Head Road DOUBLE BAY</td>
</tr>
<tr>
<td>SITE AREA</td>
<td>864.1m²</td>
</tr>
<tr>
<td>ZONING</td>
<td>R3 Medium Density Residential / Residential 2 (b)</td>
</tr>
<tr>
<td>PROPOSAL</td>
<td>Alterations and additions to an existing residential flat building including 2 bedrooms and a bathroom within the roof for Unit 6 with new dormer windows and internal reconfiguration</td>
</tr>
<tr>
<td>TYPE OF CONSENT</td>
<td>Local development</td>
</tr>
<tr>
<td>COST OF WORKS</td>
<td>$149,000.00</td>
</tr>
<tr>
<td>DATE LODGED</td>
<td>18/05/2015</td>
</tr>
<tr>
<td>APPLICANT</td>
<td>Mr B Terkasher</td>
</tr>
<tr>
<td>OWNER</td>
<td>Mr B D Terkasher</td>
</tr>
<tr>
<td>AUTHOR</td>
<td>Mr Wilson Perdigao</td>
</tr>
<tr>
<td>TEAM LEADER</td>
<td>Mr David Waghorn</td>
</tr>
</tbody>
</table>

EXECUTIVE SUMMARY

1. LOCALITY PLAN

![Locality Plan Image]
2. DELEGATIONS SUMMARY

Level of Delegation | Recommendation of Report
--- | ---
The application is to be determined by the Development Control Committee as it exceeds the maximum height and FSR development standard by more than 10%. | Approval, subject to conditions.

Note: the existing building currently exceeds the maximum building height and FSR development standards by more than 10%.

3. PROPOSAL SUMMARY

The proposal involves the following works:

**Level 3**
- Construction of a new timber framed staircase
- Installation of a new kitchen and bathroom;
- Internal reconfiguration of rooms to including the widening of openings;
- Installation of a new a/c condenser unit and hot water system to the fire stairs (Deleted by Condition A4)

**Attic Level/Roof**
- Construction of a new habitable attic space accommodating two bedrooms and en-suite;
- Construction of two new gable ended roof sections to match the existing roof detailing including new windows;
- Installation of a new skylight to the roof of the western elevation.

4. ISSUES SUMMARY

<table>
<thead>
<tr>
<th>Issue</th>
<th>Conclusion</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Height and FSR</td>
<td>The proposal involves a height and FSR non-compliance as discussed below. SEPP1 Objections have been submitted for the maximum height and floor space ratio development standards which are considered to be well founded.</td>
<td>13.3 and 13.4</td>
</tr>
</tbody>
</table>

4.1 SEPP 1 Objections

<table>
<thead>
<tr>
<th>Clause in Woollahra LEP</th>
<th>Standard</th>
<th>Departure from Control</th>
<th>Satisfactory/ Unsatisfactory</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 11</td>
<td>Floor Space Ratio</td>
<td>The existing building is non-compliant with the FSR development standard by 370.49m² achieving an FSR of 1.49:1 (1126.57m²)</td>
<td>Satisfactory</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The proposal involves an increase in floor area of 44m². This results in a gross floor area of 1,170.57m² and an FSR of 1.54:1, a non-compliance of 414.49m².</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>The proposed works are located at level 3 and to the attic level of the building.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>The applicant has submitted a SEPP1 Objection which is considered to be well-founded.</td>
<td></td>
</tr>
<tr>
<td>Clause in Woollahra LEP</td>
<td>Standard</td>
<td>Departure from Control</td>
<td>Satisfactory/ Unsatisfactory</td>
</tr>
<tr>
<td>-------------------------</td>
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<td>------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td>It is also noted that the proposal under WLEP 2014 attains an FSR of 1.39:1; a non-compliance of 77.68m² with the 1.3:1 FSR control.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Accordingly, the non-compliance is supported in this instance.</td>
<td></td>
</tr>
<tr>
<td>Clause 12</td>
<td>Height of Building</td>
<td>The existing building achieves a height of 15.6m; a non-compliance of 6.1m.</td>
<td>Satisfactory</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The proposal involves the creation of a new habitable attic roof space and internal works to Level 3 to a maximum height of 13.87m, a non-compliance of 4.37m. The proposed works are all lower than the maximum height of the existing building.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>The applicant has submitted a SEPP1 Objection which is considered to be well-founded.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>It is also noted that the proposal represents a minor 0.39m non-compliance with the 13.5m height limit under WLEP 2014.</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Accordingly, the non-compliance is supported in this instance.</td>
<td></td>
</tr>
</tbody>
</table>

4.2 Submissions

No submissions were received.

PROPERTY DETAILS AND REFERRALS

5. SITE AND LOCALITY

<table>
<thead>
<tr>
<th>Physical features</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>The site is located on the northern side of New South Head Road on the corner of New South Head Road, Henrietta Street and Holt Street. The site is relatively rectangular in shape. It has a primary street frontage to New South Head Road measuring approximately 19.64m, a rear boundary to the north measuring approximately 17.90m, and western side boundary of 26.39m. The site has an area of 864.1m².</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Topography</th>
<th>The site has a fall of approximately 5m from the front (south) to the rear (north).</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Existing buildings and structures</th>
<th>There is an existing three (3) storey residential flat building “Araluen” on the site. The works are limited to level 3 and attic level.</th>
</tr>
</thead>
</table>

| Environment                                                                      | The site is surrounded by a mix of residential developments including multi-storey residential flat buildings, multi-storey dwellings and single storey dwellings.                                                                       |
6. RELEVANT PROPERTY HISTORY

<table>
<thead>
<tr>
<th>Current use</th>
<th>Residential</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Previous Relevant Applications</strong></td>
<td>None relevant</td>
</tr>
<tr>
<td><strong>Pre-DA</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Requests for Additional Information</strong></td>
<td>The following information was requested on the 20th May 2015:</td>
</tr>
<tr>
<td></td>
<td>1. Assessment against the applicable planning documents WLEP 1995 and WRDCP 2003 are the applicable planning documents. Please provide an assessment of the proposal against the above requirements.</td>
</tr>
<tr>
<td></td>
<td>2. Details of the existing floor area for the building. If the proposal exceeds an FSR of 0.875:1 and increases the floor area – a SEPP 1 Objection to Clause 11 is required.</td>
</tr>
<tr>
<td></td>
<td>3. The proposed works exceed Council’s 9.5m height standard under Clause 12 of WLEP 1995 – a SEPP 1 Objection is required.</td>
</tr>
<tr>
<td></td>
<td>5. Shadow diagrams.</td>
</tr>
<tr>
<td><strong>Amended Plans/Replacement Application</strong></td>
<td>Information addressing the above was provided on 26th May 2015</td>
</tr>
<tr>
<td><strong>Land and Environment Court Appeal</strong></td>
<td>N/A</td>
</tr>
</tbody>
</table>
7. REFERRALS

<table>
<thead>
<tr>
<th>Referral</th>
<th>Summary of Comment</th>
<th>Annexure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heritage Officer</td>
<td>Satisfactory, no conditions imposed.</td>
<td>1</td>
</tr>
<tr>
<td>Fire Safety Officer</td>
<td>Satisfactory, subject to <strong>Condition A4, C6 and F2</strong></td>
<td>2</td>
</tr>
</tbody>
</table>

ENVIRONMENTAL ASSESSMENT UNDER SECTION 79C

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979 include the following:

1. The provisions of any environmental planning instrument
2. The provisions of any proposed instrument that is/has been the subject of public consultation
3. The provisions of any development control plan
4. Any planning agreement that has been entered into
5. Any draft planning agreement that a developer has offered to enter into
6. The regulations
7. Any coastal zone management plan
8. The likely impacts of that development:
   i) Environmental impacts on the natural and built environments
   ii) Social and economic impacts
9. The suitability of the site
10. Any submissions
11. The public interest

8. ADVERTISING AND NOTIFICATION

8.1 Submissions

In accordance with Parts 3 and 4 of the Woollahra Advertising and Notification DCP, the application was notified and advertised from 27/06/2015 to 10/07/2015. No submissions were received.

8.2 Statutory Declaration

In accordance with Clause 4.5 of the Woollahra Advertising and Notification DCP, the applicant has completed the statutory declaration, declaring that the site notice for DA 238/2015/1 was erected and maintained during the notification period in accordance with the requirements of the DCP.

9. STATE ENVIRONMENTAL PLANNING POLICY 1: DEVELOPMENT STANDARDS

SEPP 1 provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5 (a) (i) and (ii) of the Act.

The applicant submitted a SEPP 1 objection in relation to Clause 11 – FSR and Clause 12 – Height under WLEP 1995. These are discussed in depth in Section 13.
10. STATE ENVIRONMENTAL PLANNING POLICY 65: DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT

SEPP 65: Design Quality of Residential Flat Development applies to all new residential flat buildings (or substantial redevelopment) where it comprises three or more storeys and four or more self-contained dwellings.
In this instance, the proposed modifications are not considered substantial re-development and therefore SEPP65 is not a relevant consideration.

11. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development and relates to commitments within the proposed development in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The development application was accompanied by BASIX Certificate No. A218693, which commits to environmental sustainability measures relating to thermal comfort, water savings and energy efficiency.

As prescribed by Clause 97A of the Environmental Planning and Assessment Regulation 2000, these requirements have been imposed in Conditions C3, H1 and I1.

12. SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005

The land is within the Sydney Harbour catchment but is outside the Foreshores and Waterways Area and therefore there are no specific matters for consideration.

13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014


The savings provisions in Part 1.8A of the Woollahra LEP 2014 state that if a development application has been made before the commencement of this Plan and has not been determined, the application must be determined as if this Plan had been exhibited but had not commenced.

This application was made prior to the commencement of this Plan.

The Woollahra LEP 2014 includes the following changes relevant to the subject site:

- Change of the land use zoning from the existing Residential 2 (b) zone to an R3 – Medium Density Residential;
- Change of the Floor Space Ratio standard from 0.875:1 to 1.3:1;
- Change of the Maximum Building Height standard from 9.5m to 13.5m.

Whilst not determinative to the overall assessment of this application, this assessment against the relevant provisions of the Woollahra LEP 2014 is still included and has been considered as part of this assessment report.
14. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 1995


The proposal is consistent with the aims and objectives of the Woollahra LEP 1995.

14.2 Clause 8(5): Aims and Objectives of the Zone

The proposal is permissible and is consistent with the aims and objectives of the Residential 2(b) zone.

14.3 Clause 11: Floor Space Ratio

<table>
<thead>
<tr>
<th>Site Area: 864.1m²</th>
<th>Existing</th>
<th>Proposed</th>
<th>Control</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Floor Space Ratio</td>
<td>1.49:1 (1126.57m²)</td>
<td>1.54:1 (1170.57m²)</td>
<td>0.875:1 (756.08m²)</td>
<td>NO</td>
</tr>
</tbody>
</table>

Clause 11 limits development to a maximum floor space ratio of 0.875:1 (756.08m²) for the subject residential flat building.

The existing development attains a gross floor area of 1126.57m² (an FSR of 1.49:1), a non-compliance of 370.49m². The proposal results in an additional 44m² of gross floor area achieving a total of 1170.57m² (an FSR of 1.54:1), a non-compliance of 414.49m².

The increase in floor area is located within the attic space of the existing three storey residential flat building.

It is also noted that under WLEP 2014, the FSR control has been increased to 1.3:1 and the proposal attains an FSR of 1.39:1; a non-compliance of 77.68m².

The applicant has submitted an objection pursuant to State Environmental Planning Policy No. 1 – Development Standards in relation to the non-compliance with Clause 11 which has been considered to be well-founded in the following assessment.

The following assessment of the SEPP 1 objection applies the questions established in Winten Property Group Limited v North Sydney Council.

These questions remain the principal tests to establish whether or not a SEPP 1 Objection is well-founded, however, the more recent principles arising from Wehbe v Pittwater Council are applied to inform the assessment.

1. Is the planning control in question a development standard?

The planning control in question is the maximum floor space ratio standard set by Clause 11 of Woollahra LEP 1995. As such, any variation of the standard requires a SEPP 1 objection, as has been prepared in this case.

2. What is the underlying purpose of the standard?

The objectives of the maximum floor space ratio standard in Clause 11AA are:
a) To set the maximum density for new development
b) To control building density, bulk and scale in all residential and commercial localities in the area in order to achieve the desired future character objectives of those localities
c) To minimise adverse environmental effect on the use or enjoyment, or both, of adjoining properties
d) To relate new development to the existing character of surrounding built and natural environment as viewed from the streetscape, Sydney Harbour or any other panoramic viewing point

3. Is compliance with the development standard consistent with the aims of the Policy, and in particular, does the development standard tend to hinder the attainment of the objects specified in s.5(a)(i) and (ii) of the EPA Act?

The aim of the Policy is set out at Clause 3 and seeks to “provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979.

In Wehbe v Pittwater Council, Commissioner Preston stated:

“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”

Accordingly, the following assessment considers the objection made by the applicant against the provisions of Clause 11 of Woollahra LEP 1995 and whether or not it is established that the objectives of the development standard are achieved irrespective of the non-compliance.

- **Objective a)** is satisfied because the proposal will not increase the density on the site as the number of apartments will remain the same. The additional floor space of 44m$^2$ is limited to the existing roof space for a single unit only;
- **Objective b)** is satisfied because the alterations and additions will not significantly add to the bulk of the building given the location within the existing building footprint at the level 3 and attic space of the building. The only minor additional bulk is associated with the two gablets to the roof that match the size and detailing of the existing gablets.
- **Objective c)** is satisfied because the proposed works will not adversely impact on the use or enjoyment of adjoining properties in terms of privacy, views and solar access;
- **Objective d)** is satisfied because the proposal will not adversely impact on the character of the surrounding built and natural environment as the majority of the alterations and additions will not be highly visible from the streetscape or surrounding properties. The addition of two gablets present as a sympathetic and cohesive elements to the existing building.

As a result of this assessment it is considered that, notwithstanding the non-compliance with the development standard, the underlying objectives founding that standard are achieved by the proposed development.
The Land and Environment Court has established that it is insufficient merely to rely on absence of environment harm to sustain an objection under SEPP 1. This position was confirmed in Wehbe v Pittwater Council. The following assessment considers whether the objection demonstrates that strict application of the development standard would hinder the attainment of the objects of the Environmental Planning and Assessment Act 1979.

Section 5(a) of the Act prescribes the objects relevantly as to encourage:

i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment

ii) The promotion and co-ordination of the orderly and economic use and development of land

iii) The protection, provision and co-ordination of communication and utility services

iv) The provision of land for public purposes

v) The provision of co-ordination of community services

vi) The protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities

vii) Ecologically sustainable development

viii) The provision and maintenance of affordable housing

It is considered that the proposal is consistent with objectives i) and ii) as the proposed works allow for the proper management and development of the land and the orderly economic use of the land in that the alterations and additions will provide improved amenity to the occupants without presenting any significant adverse impacts to neighbours' amenity. It is considered that, in the circumstances of the case, the strict application of the development standard would hinder the attainment of the objects of the Act.

4. Is compliance with the standard unreasonable and unnecessary in the circumstances of the case?

The foregoing analysis has found that notwithstanding the non-compliance with the maximum floor space ratio standard, the proposed development achieves the underlying objectives of that standard. Consequently it is considered that the SEPP 1 objection has established that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

5. Is the objection well founded?

The objection advanced by the applicant to the maximum floor space ratio development standard is well founded on the basis that its strict application would hinder the attainment of the objects of the Act and that the proposed development achieves the underlying objectives of the standard.

14.4 Clause 12: Height of Buildings

<table>
<thead>
<tr>
<th></th>
<th>Existing</th>
<th>Proposed</th>
<th>Control</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall Height</td>
<td>15.6m</td>
<td>Works to 13.87m</td>
<td>9.5m</td>
<td>NO</td>
</tr>
</tbody>
</table>

Clause 12 limits development to a maximum height of 9.5m on the subject site.
The existing building attains a height of 15.6m; a non-compliance of 6.1m. The proposal attains a maximum height of 13.87m; a non-compliance of 4.37m.

The proposed works are all lower than the existing maximum building height.

It is also noted under WLEP 2014 the height control has been increased to 13.5m and the proposal attains a height of 13.87; a non-compliance of 0.39m.

The applicant has submitted an objection pursuant to State Environmental Planning Policy No. 1 – Development Standards in relation to the non-compliance with Clause 12 which is considered to be well-founded in the following assessment.

The following assessment of the SEPP 1 objection applies the questions established in Winten Property Group Limited v North Sydney Council.

These questions remain the principal tests to establish whether or not a SEPP 1 Objection is well founded, however, the more recent principles arising from Wehbe v Pittwater Council are applied to inform the assessment.

1. Is the planning control in question a development standard?

The planning control in question is the maximum building height standard set by Clause 12 of Woollahra LEP 1995. As such, any variation of the standard requires a SEPP 1 objection, as has been prepared in this case.

2. What is the underlying purpose of the standard?

The objectives of the maximum height standard in Clause 12AA are:

a) To minimise impact of new development on existing views of Sydney Harbour, ridgelines, public and private open spaces and views of the Sydney City skyline
b) To provide compatibility with the adjoining residential neighbourhood
c) To safeguard visual privacy of interior and exterior living areas of neighbouring dwellings
d) To minimise detrimental impacts on existing sunlight access to interior living rooms and exterior open space areas and minimise overshadowing
e) To maintain the amenity of the public domain by preserving public views of the harbour and surrounding areas and the special qualities of the streetscapes

3. Is compliance with the development standard consistent with the aims of the Policy, and in particular, does the development standard tend to hinder the attainment of the objects specified in s.5(a)(i) and (ii) of the EPA Act?

The aim of the Policy is set out at Clause 3 and seeks to “provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979.”
In Wehbe v Pittwater Council, Commissioner Preston stated:

“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”

Accordingly, the following assessment considers the objection made by the applicant against the provisions of Clause 12 of Woollahra LEP 1995 and whether or not it is established that the objectives of the development standard are achieved irrespective of the non-compliance.

- **Objective a)** is satisfied because the proposed works, which are located at level 3 and attic level, are mainly within the existing building footprint and envelope. The proposed gablets are the only elements of additional bulk and therefore will not result in adverse impacts on views;
- **Objective b)** is satisfied because the majority of proposed works will not be highly visible from the street given their location on level 3 and attic level of the building. The proposed gablets present as cohesive elements matching the detailing of the existing gablets and is therefore considered acceptable;
- **Objective c)** is satisfied because there is no adverse privacy impacts given the location of the new windows to the gable ends are adequately separated from surrounding residences and they overlook the road reserves of New South Head Road and Henrietta Street;
- **Objective d)** is satisfied because the gablet additions will not cause any significant overshadowing to neighbouring properties given the north/south orientation of the site and the location of the additions to the roof of building;
- **Objective e)** is satisfied because the proposal will not adversely impact on the amenity of the public domain or views.

As a result of this assessment it is considered that, notwithstanding the non-compliance with the development standard, the underlying objectives founding that standard are achieved by the proposed development.

The Land and Environment Court has established that it is insufficient merely to rely on absence of environment harm to sustain an objection under SEPP 1. This position was confirmed in Wehbe v Pittwater Council. The following assessment considers whether the objection demonstrates that strict application of the development standard would hinder the attainment of the objects of the Environmental Planning and Assessment Act 1979.

Section 5(a) of the Act prescribes the objects relevantly as to encourage:

i. The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment

ii. The promotion and co-ordination of the orderly and economic use and development of land

iii. The protection, provision and co-ordination of communication and utility services

iv. The provision of land for public purposes

v. The provision of co-ordination of community services
vi. The protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities

vii. Ecologically sustainable development

viii. The provision and maintenance of affordable housing

It is considered that Objectives i) and ii) are upheld because the proposal will allow for the proper management and orderly and economic development of the land whilst providing improved amenity to the occupants with minimal environmental impact to neighbouring properties. In the circumstances of the case, the strict application of the development standard would hinder the attainment of the objects of the Act.

4. Is compliance with the standard unreasonable and unnecessary in the circumstances of the case?

The foregoing analysis has found that notwithstanding the non-compliance with the maximum building height standard, the proposed development achieves the underlying objectives of that standard. Consequently it is considered that the SEPP I objection has established that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

5. Is the objection well founded?

The objection advanced by the applicant to the maximum building height development standard is well founded on the basis that its strict application would hinder the attainment of the objects of the Act and that the proposed development achieves the underlying objectives of the standard.

14.5 Clause 25: Water, Wastewater and Stormwater

Clause 25 requires Council to take into consideration the provision of adequate stormwater drainage and the provision of adequate water and sewerage services. The proposed gablet roofing will drain onto the existing buildings roof and guttering systems.

The proposal is satisfactory with regard to Clause 25 subject to Condition C.7.

14.6 Clause 25D: Acid Sulphate Soils

Clause 25D requires Council to consider any potential acid sulphate soil affectation where excavation is proposed within the site.

The subject site is within a Class 5 Acid Sulphate Soils Area as identified in the Planning NSW Acid Sulphate Soils Risk Map. However, the subject works are not likely to lower the water table below 1.0m AHD on any land within 500m of a Class 1, 2 and 3 land classifications. Accordingly, preliminary testing is would not be required. Therefore, there is no issue of acid sulphate affectation in this case.
15. WOOLLAHRA RESIDENTIAL DEVELOPMENT CONTROL PLAN 2003

15.1 Section 4.2: Double Bay – Desired Future Precinct Character

<table>
<thead>
<tr>
<th>Site Area: 864.1m²</th>
<th>Existing</th>
<th>Proposed</th>
<th>Control</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Number of Storeys – RFB</td>
<td>3 Storeys</td>
<td>4 Storeys (Incl. Attic Level)</td>
<td>3 Storeys</td>
<td>NO</td>
</tr>
<tr>
<td>Side Setbacks – RFB</td>
<td>4.6m</td>
<td>Works to 5.2m</td>
<td>6.1-8m</td>
<td>NO</td>
</tr>
<tr>
<td>Attic Level (Eastern)</td>
<td>0.5m</td>
<td>Works to 2.2m</td>
<td>6.7-7.7m</td>
<td>NO</td>
</tr>
</tbody>
</table>

**Side Setbacks**

C 4.2.4 stipulates that development where the site lot width is equal to or greater than 18.0m at the front alignment requires a minimum side setback of 3m increased on a pro rata basis by 0.5m for each metre or part thereof that the building height adjacent to the boundary exceeds 6.0m.

The subject site therefore requires side setbacks of 6.1-8m. The proposal involves alterations and additions to level 3 and attic level of an existing three (3) storey residential flat building. The proposal results in non-compliances with the eastern and western side setback requirements at the attic level as a result of the gablet additions.

Notwithstanding the non-compliances the proposal is acceptable for the following reasons:

- The proposed works the attic level are required to be setback 6.1m - 8m from the side boundaries. The side setback control would allow the attic level to be a maximum width of less than 4m at the highest point;
- The gablet additions to the eastern and southern sides of the building do not extend beyond the existing building footprint or established setbacks;
- The additions will not present adverse amenity impacts to neighbouring properties;
- The additions will not cause any significant loss of views;
- The additions are lower than the existing height of the building and will not present excessive bulk and scale; and
- The gablets present as a cohesive element to the existing building.

Accordingly, it would not be reasonable to require compliance with this requirement in the circumstances of the case.

**Number of Storeys**

C 4.2.7.2 stipulates that RFB’s are to have a maximum height of 3 storeys.

The proposed additional habitable floor area within the attic level creates an additional storey to the existing dwelling and a non-compliance with the aforementioned control. Notwithstanding the non-compliance the proposal is acceptable for the following reasons:

- The additional floor space will be largely contained within the existing roof pitch with the exception of the two additional gablets;
- The additional storey will not result in excessive bulk and scale in relation to the existing building and streetscape suitability of New South Head Road and Henrietta Street;
• The additional storey will not result in any significant adverse impacts upon solar access, views and amenity on surrounding properties; and
• The additional level is sympathetic to the existing building in terms of matching the existing gable detailing and roof form.

**Roof Form**

C 4.2.7.8 stipulates that the roof form is to be designed having consideration for neighbouring amenity in terms of overlooking, streetscape suitability and to maintain views across the precinct.

The proposed addition of two gablet elements is considered to be appropriate for the following reasons:

• The gablets present as cohesive built form elements to the existing roof;
• The additional gablets to the roof will not result in any significant adverse amenity impacts on surrounding properties;
• The two additional gablets to the southern and eastern elevation architecturally match the existing single gable to the eastern elevation;
• The additional gablets present as sympathetic elements to the existing residential flat building, subject to **Condition C.1 (a)**.

**Conclusion**

The proposal is therefore acceptable with regard to Section 4.2 of the Woollahra RDCP 2003.

**15.2 Section 5.1: Streetscape performance criteria**

It is considered that the proposed development will have a minimal and acceptable impact upon the streetscape, and therefore satisfies the intent of the relevant objectives and controls under Part 5.1.

**15.3 Section 5.2: Building Size and Location**

<table>
<thead>
<tr>
<th>Site Area: 864.1m²</th>
<th>Existing</th>
<th>Proposed</th>
<th>Control</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Floor to Ceiling Height – Habitable Rooms</td>
<td>-</td>
<td>1.6-2.8m</td>
<td>2.7m</td>
<td>NO</td>
</tr>
<tr>
<td>Solar Access to Open Space of Adjacent Properties</td>
<td>&gt; 50% for 2 hours</td>
<td>&gt;50% for 2 hours</td>
<td>50% for 2 hours on 21 June</td>
<td>YES</td>
</tr>
<tr>
<td>Solar Access to Nth Facing Living Areas of Adjacent Properties</td>
<td>&gt; 3 hours</td>
<td>&gt; 3 hours</td>
<td>3 hours on 21 June</td>
<td>YES</td>
</tr>
</tbody>
</table>

**Floor to Ceiling Height**

C 5.2.10 requires that habitable rooms must have a minimum floor to ceiling height of 2.7m. A lower height is permissible where it is located within a roof space, it does not affect the internal amenity and where there are measurable benefits for neighbouring amenity.

The proposed attic space with a headroom height of 1.6-2.8m presents a non-compliance with the above control. Although this is non-complaint with the DCP control, it would comply with the Building Code of Australia which permits lower floor to ceiling heights less than 2.7m. Section F3.1 (a) (iv) of the Building Code of Australia states minimum ceiling heights "in attic - a height of not less than 2.2m for not less than two thirds of the floor area of the room or space." Subject to
Condition D1 and E2 requiring compliance with the Building Code of Australia the proposed attic space is acceptable. The internal amenity for the residents is not significantly compromised as a result of the headroom while the benefits to surrounding residences in terms of reducing the overall bulk and scale of the building are evident.

Conclusion

The proposal is therefore acceptable with regard to Section 5.2 of the Woollahra RDCP 2003.

15.4 Section 5.3: Open space and landscaping

The proposal does not alter the existing situation in relation to open space and landscaping and is therefore acceptable with regard to Section 5.3 of the Woollahra RDCP 2003.

15.5 Section 5.5: Views

No concern has been raised in relation to view loss.

Views are available towards the harbour and surrounding areas. The additions are almost entirely located within the existing building envelope except for the gablet additions and do not extend beyond the existing side elevations or maximum roof ridgeline. Accordingly, the proposal is unlikely to cause any significant adverse impact upon view loss.

15.6 Section 5.6: Energy Efficiency

BASIX

The development application was accompanied by BASIX Certificate No. A218693, committing to thermal comfort, water conservation and energy efficiency sustainability measures.

The proposal is therefore acceptable with regard to Section 5.6 of the Woollahra RDCP 2003.

15.7 Section 5.7: Stormwater management

The proposed gablet roofing will drain directly into the existing system of roof drainage subject to Condition C.7. The proposal is therefore acceptable with regard to Section 5.7 of the Woollahra RDCP 2003.

15.8 Section 5.8: Acoustic and Visual Privacy

O5.8.1 and O5.8.2 aim to ensure adequate acoustic and visual privacy for occupants and neighbours.

The proposal is acceptable with regards to visual and acoustic privacy for the following reasons:

- The proposed windows to the gablets do not directly overlook any adjoining properties private open space or habitable rooms and face onto several road reserves (New South Head Road and Henrietta Street);
- The proposed gas hot water system and air conditioning condenser units have been deleted subject to Condition A4;
- No concern has been raised from adjoining or surrounding residences in relation to acoustic or visual privacy issues as a result of the development.

Accordingly, the proposal is therefore acceptable with regard to Section 5.8 of the Woollahra RDCP 2003.

**15.9 Section 5.14: Inter-war Flat Buildings**

Inter war flat buildings relate to residential flat buildings constructed between 1918 and 1950. The existing building was constructed within this period.

<table>
<thead>
<tr>
<th></th>
<th>Existing</th>
<th>Proposed</th>
<th>Control</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chimney</td>
<td>Retained</td>
<td>Retained</td>
<td>Retained</td>
<td>YES</td>
</tr>
<tr>
<td>Window Materials</td>
<td>Timber</td>
<td>Timber</td>
<td>Timber Double Hung</td>
<td>YES</td>
</tr>
<tr>
<td>Roof Materials</td>
<td>Terracotta Tiles</td>
<td>Terracotta tiles (Subject to C.1a)</td>
<td>Glazed Terracotta Tiles.</td>
<td>YES</td>
</tr>
</tbody>
</table>

**Alterations, Additions and Repairs**

C5.14.7 limits additions to the undercroft and underfloor and within roof spaces without changing the overall form and character of the building.

The proposed addition of two gablets to the eastern and southern elevations presents a non-compliance with the aforementioned control. Notwithstanding this non-compliance the proposal is acceptable in this instance for the following reasons:

- The proposed gablets are a sympathetic addition to the existing building;
- The majority of the works are limited to the internal areas of the building and within roof spaces which is not readily visible from the public domain;
- The additional gablets would not detract from the significance of the building given the original roof form has already been altered in the past to accommodate two large gablets of similar form and size as the proposed; and
- Council’s Heritage Officer has considered that the proposal will not have an adverse impact on the significance of the inter-war flat building.

**Roofscapes, Chimneys and External Materials**

C5.14.13 prohibits alterations to the original roof form.

C5.14.14 specifies traditional roofing materials such as glazed terracotta tiles and not concrete roofing tiles and corrugated metal roofing.

C5.14.15 prohibits dormer windows whilst C5.14.16 prohibits roof lights, roof windows and skylights where visibly prominent or to the principal streetscape elevations of the building.

C5.14.30 requires walls of brick or render/stucco, windows of timber double hung or casement with an original glazing pane size and roofs of glazed terracotta tiles.
The proposed works results in non-compliance with the aforementioned controls. Notwithstanding this non-compliance the proposal is acceptable in this instance for the following reasons:

- The existing roof form presents two gablets (one to the southern and one to the eastern elevation), the proposed additional gablets are acceptable given they are designed to match the existing gablets in terms of materiality and detailing;
- Given that there have been previous alterations to the original roof form to accommodate gablets of similar form and size, the proposal in this instance can be supported subject to Condition C.1 (a);
- The single proposed skylight to the western roof plane is considered acceptable as it is of a low profile and would not be readily visible from the streetscape given its location above the ground level and not facing a road reserve;
- The proposal retains the existing chimneys as part of the development; and
- Council’s Heritage Officer has considered that the proposal will not have an adverse impact on the significance of the inter-war flat building.

Accordingly, the proposal is therefore acceptable with regard to Section 5.14 of the Woollahra RDCP 2003.

16. **WASTE NOT DEVELOPMENT CONTROL PLAN 2010**

The Waste Not DCP is applicable to all development and seeks to establish waste minimisation and sustainable waste management during demolition and construction phases and throughout the ongoing use of the building.

16.1 **Site Waste Minimisation and Management Plan (SWMMP)**

The applicant provided a SWMMP with the development application. The SWMMP addresses volume and type of waste and recyclables to be generated, storage and treatment of waste and recyclables on site, disposal of residual waste and recyclables and operational procedures for ongoing waste management once the development is complete. The SWMMP was found to be satisfactory.

16.2 **Controls for All Development**

Sections 3.1.4 and 3.2.4 requires the following relevant considerations during the demolition and construction phase.

The proposal is acceptable with regard to the demolition and construction provisions in Sections 3.1.4 and 3.2.4 of the Waste Not DCP 2010.

16.3 **Development Specific Controls**

**Residential Flat Buildings**

The proposal satisfies the provisions for residential flat buildings in Section 4.2.4 of the Waste Not DCP.
17. SECTION 94 CONTRIBUTION PLANS

17.1 Section 94A Contributions Plan 2011

In accordance with Schedule 1, a 0.5% levy applies with the monies being used for a variety of works as outlined in Schedule 2 of the Section 94A Contributions Plan 2011.

<table>
<thead>
<tr>
<th>Cost of Works</th>
<th>Rate</th>
<th>Contribution Payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>$149,000</td>
<td>0.5%</td>
<td>$745</td>
</tr>
</tbody>
</table>

Refer to Condition C2.

18. APPLICABLE ACTS/REGULATIONS

18.1 Demolition of Structures

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires Council to consider Australian Standard AS 2601-2004: The demolition of structures. This is required in Condition E2.

18.2 Fire Safety

An annual fire safety schedule is required to be submitted prior to the occupation or use of the building. This is detailed in Condition C6 and F2. It is noted that Condition A4 does not grant consent to the proposed gas hot water and a/c unit within the existing fire stairs.

19. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report, or are considered to be satisfactory and not warrant further consideration.

20. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

21. THE PUBLIC INTEREST

The proposal is in the public interest.

22. CONCLUSION

The proposal is acceptable against the relevant considerations under Section 79C.

23. DISCLOSURE STATEMENTS

Under Section 147 of the Environmental Planning and Assessment Act, 1979 there have been no disclosure statements regarding political donations or gifts made to any Councillor or gifts made to any council employee submitted with this development application by either the applicant or any person who made a submission.
RECOMMENDATION: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act 1979

THAT the Council, as the consent authority, is of the opinion that the objection under State Environmental Planning Policy No. 1 – Development Standards to the following:

- 0.875:1 Floor Space Ratio development standard under Clause 11; and
- 9.5m maximum height development standard under Clause 12.

Of the Woollahra LEP 1995 is well founded. The Council is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as the proposal satisfies the objectives underlying the controls.

AND

THAT the Council, as the consent authority, being satisfied that the objection under SEPP No. 1 is well founded and also being of the opinion that it is consistent with the aims of the Policy, grant development consent to Development Application No. 238/2015/1 for alterations and additions to an existing residential flat building including 2 bedrooms and a bathroom within the roof for Unit 6 with new dormer windows and internal reconfiguration on land at 6/276 New South Head Road Double Bay, subject to the following conditions:

A. General Conditions

A.1 Conditions

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

Standard Condition: A1

A.2 Definitions

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

Applicant means the applicant for this Consent.

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

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

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

Council means Woollahra Municipal Council
**Court** means the Land and Environment Court

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

**Stormwater Drainage System** means all works, facilities and documentation relating to:
- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

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

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

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

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

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

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

**Road** has the same 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

**Work** for the purposes of this consent means:
- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piering, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the site of any machine, article, material, or thing, or
- the occupation of the site by any person unless authorised by an occupation certificate.
Note: Interpretation of Conditions - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.
Standard Condition: A2

A.3 Approved Plans and supporting documents

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

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Author/Drawn</th>
<th>Date(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project No. 1507</td>
<td>Architectural Plans</td>
<td>Architects Ink</td>
<td>11 May 2015</td>
</tr>
<tr>
<td>Sheets 1, 2, 3, 4</td>
<td>Design, Site Plan, Site Analysis</td>
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<tr>
<td></td>
<td>Design Level 2 Part Plan</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Attic Level Part Plan</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Design, Elevations and Section</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

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

A.4 Development Consent is not granted

This approval does not grant development consent to any hot water or a/c condenser unit systems, indicated on the approved plans as “new gas instantaneous hot water and a/c condenser location subject to Body Corporate Approval”.
Standard Condition: A9

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

B.1 Construction Certificate required prior to any demolition

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

Note: See Over our Dead Body Society Inc v Byron Bay Community Association Inc [2001] NSWLEC 125.
Standard Condition: B1
C. Conditions which must be satisfied prior to the issue of any construction certificate

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

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

a) In order to comply with C 5.14.14 of the Woollahra Residential DCP 2003 the proposed gablet roofing is to match the match the original principal roofing in terms of profile colour and materials. Concrete roofing tiles and corrugated metal roofing are not appropriate and are not permitted.

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

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

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

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

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

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Indexed</th>
<th>Council Fee Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>LONG SERVICE LEVY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>under Building and Construction Industry Long Service Payments Act 1986</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Long Service Levy</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contact LSL Corporation or use online calculator</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$7,768.20</td>
<td>No</td>
<td>T115</td>
<td></td>
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<tr>
<td>SECURITY</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>under section 80A(6) of the Environmental Planning and Assessment Act 1979</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Property Damage Security Deposit -making good any damage caused to any property of the Council</td>
<td>$745</td>
<td>Yes, quarterly</td>
<td>T96</td>
</tr>
<tr>
<td>DEVELOPMENT LEVY</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>under Woollahra Section 94A Development Contributions Plan 2011</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>This plan may be inspected at Woollahra Council or downloaded at <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development Levy (Section 94A)</td>
<td>$745</td>
<td>Yes, quarterly</td>
<td>T96</td>
</tr>
<tr>
<td>+ Index Amount</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>INSPECTION FEES</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>under Section 608 of the Local Government Act 1993</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Security Administration Fee</td>
<td>$185</td>
<td>No</td>
<td>T16</td>
</tr>
<tr>
<td>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</td>
<td>$8,698.20</td>
<td>plus any relevant indexed amounts and long service levy</td>
<td></td>
</tr>
</tbody>
</table>

Building and Construction Industry Long Service Payment

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

Payments must be made by:

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

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

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

How will the section 94A levy be indexed?

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

Do you need HELP indexing the levy?

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

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

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

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

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

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

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

Standard Condition: C5

C.3 BASIX commitments

The applicant must submit to the Certifying Authority BASIX Certificate No. A218693, with any application for a Construction Certificate.

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

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

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

Standard Condition: C7

C.4 Structural Adequacy of Existing Supporting Structures

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

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

Standard Condition: C35

C.5 Professional Engineering Details

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

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

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

Standard Condition: C36
C.6 Building upgrade (Clause 94 of the Regulation)

_Council_ considers pursuant to clause 94 of the _Regulation_ that it is appropriate to require the existing building to be brought into total or partial conformity with the _BCA_.

The _Construction Certificate_ plans and specification required to be submitted to the _Certifying Authority_ pursuant to clause 139 of the _Regulation_ must detail building upgrade works required by this condition.

The _Certifying Authority_ must be satisfied that such work, to be implemented as part of the development, will upgrade part of the building to bring it into compliance with the following provisions of the _BCA_ as in force at the date of the _Construction Certificate_ application:

a) That smoke alarms be installed throughout the sole occupancy unit in accordance with the requirements of Specification E2.2a Clause 3 of the _BCA_.

b) That the entrance doorways of the sole occupancy unit shall have a fire resistance level of /-60/30 and be fitted with an approved self-closing device designed to bring the doors to the fully closed and latched position after each manual operation in accordance with the requirements of AS 1905.1-2005.

_Note_: The _Certifying Authority_ issuing the _Construction Certificate_ has no power to remove the requirement to upgrade the existing building as required by this condition. Where this conditions specifies compliance with performance requirements of the _BCA_ the _Certifying Authority_, subject to their level of accreditation, may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (deemed to satisfied) provisions of the _BCA_ these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed under section 82A or amended under section 96 of the _Act_.

_Note_: This condition does not set aside the _Certifying Authorities_ responsibility to ensure compliance with clause 143 of the _Regulation_ in relation to Fire Protection and Structural Adequacy.

_Note_: AS 4655 _Guidelines for fire safety audits for buildings_ (or any succeeding AS) should form the basis of any fire upgrade report.

Standard Condition: C/10

C.7 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


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

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

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

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

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

This condition does not apply:

a) to the extent to which an exemption is in force under the Home Building Regulation 2004,

b) to the erection of a temporary building.

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

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

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

Standard Condition: D1
D.2 Security Fencing, Hoarding and Overhead Protection

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

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

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

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

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

a) Extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
b) Have a clear height above the footpath of not less than 2.1 m;
c) Terminate 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5 m above the platform surface; and
d) Together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.
The **principal contractor** or **owner builder** must pay all fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.


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

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

**D.3 Site Signs**

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

Clause 98A of the Regulation provides:

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

Clause 227A of the Regulation provides:
Signs on development sites

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

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

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

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

Standard Condition: D12

D.4 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)

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

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

b) The person having the benefit of the development consent has:
   - Appointed a principal certifying authority for the building work, and
   - Notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and

c) The principal certifying authority has, no later than 2 days before the building work commences:
   - Notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
   - Notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

d) The person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
   - Appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
   - Notified the principal certifying authority of any such appointment, and
   - Unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
   - Given at least 2 days’ notice to the council of the person’s intention to commence the erection of the building.
Note: building has the same meaning as in section 4 of the Act and includes part of a building and any structure or part of a structure.

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

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

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

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

Standard Condition: D15

E. Conditions which must be satisfied during any development work

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

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

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

This condition does not apply:

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

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

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

Standard Condition: E1

E.2 Compliance with Australian Standard for Demolition


Standard Condition: E2
E.3 Requirement to notify about new evidence

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

Standard Condition: E4

E.4 Critical Stage Inspections

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

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

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

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

Standard Condition: E5

E.5 Hours of Work –Amenity of the neighbourhood

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

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

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

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

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


Standard Condition: E6

E.6 Public Footpaths – Safety, Access and Maintenance

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

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

b) Not use the road or footway for the storage of any article, material, matter, waste or thing.

c) Not use the road or footway for any work.

d) Keep the road and footway in good repair free of any trip hazard or obstruction.

e) Not stand any plant and equipment upon the road or footway.

f) Provide a clear safe pedestrian route a minimum of 1.5m wide.

g) Protect street name inlays in the footpath which are not to be removed or damaged during development.

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

a) Australian Standard AS 1742 (Set) Manual of uniform traffic control devices and all relevant parts of this set of standards.

b) Australian Road Rules to the extent they are adopted under the Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999.

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

Note: Section 138 of the Roads Act 1993 provides that a person must not:
- erect a structure or carry out a work in, on or over a public road, or
- dig up or disturb the surface of a public road, or
- remove or interfere with a structure, work or tree on a public road, or
- pump water into a public road from any land adjoining the road, or
- connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.
Note: Section 68 of the Local Government Act 1993 provides that a person may carry out certain activities only with the prior approval of the council including:

- Part C Management of Waste:
  a. For fee or reward, transport waste over or under a public place
  b. Place waste in a public place
  c. Place a waste storage container in a public place.”

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

Standard Condition: E7

E.7 Maintenance of Environmental Controls

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

a) Erosion and sediment controls,

b) Dust controls,

c) Dewatering discharges,

d) Noise controls;

e) Vibration monitoring and controls;

f) Ablutions;


Standard Condition: E11

E.8 Disposal of site water during construction

The principal contractor or owner builder must ensure:

a) Prior to pumping any water into the road or public stormwater system that approval is obtained from Council under section 138(1)(d) of the Roads Act 1993;

b) That water pollution, as defined by the Protection of the Environment Operations Act 1997, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water;

c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

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

Standard Condition: E17

E.9 Placement and use of Skip Bins

The principal contractor or owner builder must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:
a) Activity Approval has been issued by Council under section 94 of the Local Government Act 1993 to place the waste storage container in a public place, and

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

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.
Standard Condition: E21

E.10 Prohibition of burning

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

All burning is prohibited in the Woollahra local government area.

Note: Pursuant to the Protection of the Environment Operations (Control of Burning) Regulation 2000 all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.
Standard Condition: E22

E.11 Dust Mitigation

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

This generally requires:

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

Note: “Dust Control - Do it right on site” can be downloaded free of charge from Council’s web site www.woollahra.nsw.gov.au or obtained from Council’s office.
Note: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.workcover.nsw.gov.au and www.epa.nsw.gov.au. Other specific condition and advice may apply.
Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.
Standard Condition: E23

E.12 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 land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

Standard Condition: E31

E.13 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.

h) Implement measures to prevent damage by the elements, odour and health risks, and windborne litter

i) Minimise site disturbance and limit unnecessary excavation

j) Ensure that all waste is transported to a place that can lawfully be used as a waste facility
k) Retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, Department of Environment and Climate Change (DECC) or WorkCover NSW

Standard Condition: E32

E.14 Asbestos Removal

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

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

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

Standard Condition: E39

E.15 Classification of Hazardous Waste

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

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

Standard Condition: E40

E.16 Disposal of Asbestos and Hazardous Waste

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

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

Standard Condition: E41

E.17 Asbestos Removal Signage

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

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

Standard Condition: E42
F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

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

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

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

F.2 Fire Safety Certificates

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

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

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

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

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

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

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

Note: In this condition:
interim fire safety certificate has the same meaning as it has in Part 9 of the Regulation.
final fire safety certificate has the same meaning as it has in Part 9 of the Regulation.
new building has the same meaning as it has in section 109H of the Act.

Standard Condition: F4

F.3 Commissioning and Certification of Systems and Works

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

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

a) Certification from the supervising professional engineer that the requirement of the Geotechnical / Hydrogeological conditions and report recommendations were implemented and satisfied during development work.

b) All flood protection measures.
c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1 – “Off-Street car parking.”
d) All stormwater drainage and storage systems.
e) All mechanical ventilation systems.
f) All hydraulic systems.
g) All structural work.
h) All acoustic attenuation work.
i) All waterproofing.
j) Such further matters as the Principal Certifying Authority may require.

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

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

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

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

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. A218693.

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

Standard Condition: F7

H.2 **Removal of Ancillary Works and Structures**

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

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

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

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

I.1 Maintenance of BASIX commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. A218693.

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

Standard Condition: I24

J. Miscellaneous Conditions

Nil.

K. Advisings

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

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

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

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

Warnings as to potential maximum penalties

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

Warning as to enforcement and legal costs

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

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


Standard Advising: K1
K.2 Builders Licences and Owner Builders Permits

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

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

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

Standard Condition: K5

K.3 Building Standards - Guide to Standards and Tolerances

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

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

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


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

Standard Condition: K6

K.4 Workcover requirements

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

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

Standard Condition: K7
K.5 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr W Perdigao, Assessment Officer, on (02) 9391 7150.

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

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

Standard Condition: K14

K.6 Recycling of Demolition and Building Material

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

Standard Condition: K17

K.7 Owner Builders

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

Standard Condition: K18

Annexures

1. Referral Response - Heritage
2. Referral Response - Fire Safety
3. Plans and elevations
24 June 2015

REFERRAL RESPONSE - HERITAGE

FILE NO: \ DA 238/2015/1
ADDRESS: 6/276 New South Head Road DOUBLE BAY 2028
PROPOSAL: Alterations & additions to existing residential flat building including 2 bedrooms and a bathroom within the roof for Unit 6 with new dormer windows and internal reconfiguration.
FROM: Paul Fletcher - Heritage Officer
TO: Ms S Richards

ISSUES
• There are no areas of heritage concern.

DOCUMENTATION
The following documentation provided by the applicant has been examined for this referral response:
• Drawing set by Architects Ink, dated 11 May 2015 and numbered 1B – 4B.
• Amended Statement of Environmental Effects by Architects Ink, undated.
• Survey plan by Watson Buchan, reference 15/167, dated 27 April 2015.

SITE INSPECTION / RESEARCH
The following research was undertaken in the preparation of this assessment:
• The site was not inspected.

Review of the following documents and photographic evidence:
• Council’s property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
• Council’s photography files relevant to the immediate area.
• Council’s aerial photography and mapping database.

STATUTORY AND POLICY DOCUMENTS
The following statutory and policy documents are relevant to the application:
• Woollahra Local Environmental Plan 1995, the LEP; and
• Woollahra Residential Development Control Plan 2003, the DCP.

HERITAGE FRAMEWORK
• The subject building is within the DCP’s Double Bay precinct.
The subject building is not located within or adjoining a heritage conservation area.

- The subject building is not in the vicinity of a heritage item.
- The subject building is not a heritage item in the LEP and is not listed on the State Heritage Register.

SIGNIFICANCE OF SUBJECT PROPERTY

The subject dwelling is a three-storey Inter-War residential flat building which was constructed in 1924. In addition to the three floors of accommodation, there is a small lower-ground-floor and existing floor space within the roof space. The roof has two large gablets, one to the north-facing roof plane and one to the east-facing roof plane. It is noted that the northern gablet is clearly shown in an aerial photograph of Double Bay that was taken in 1943.

Council records show that the building has been the subject of five Building Applications: in 1988, 1987, 1966, 1939 and 1924.

As an Inter-War residential flat building, the subject building makes an important contribution to the character of the Double Bay precinct and to the historical development of the Municipality.

DESCRIPTION OF PROPOSAL

The following works are proposed:

- To level 2: To the extent shown on the drawings demolish existing internal walls, widen existing doorways, construct new internal walls and reconfigure the existing spaces in flat 6 to provide a laundry, kitchen and meals area, dining room, living room, bedroom, bathroom, separate lavatory and a dog-leg stair with winders at the second turn leading up to the roof space, with storage space under the stair.

- To the roof space: Demolish part of the floor to provide a well for the dog-leg stair. Construct new internal walls and configure the space to provide a lobby, a main bedroom with bathroom en suite, a second bedroom and storage space where there is insufficient headroom for habitable spaces.

- Externally: Insert a large gablet into the south-facing roof plane. Insert a second large gablet into the east-facing roof plane. As shown on the drawings, insert windows into the external wall of each gablet. Insert an openable skylight into the west-facing roof plane.

ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant planning controls

The assessment is made using the following statutory and policy heritage conservation provisions:

Woollahra Local Environmental Plan 1995, the LEP

- Clause 2(1)(g): For the reasons set out below, the development does conserve the heritage of the area of Woollahra.

Woollahra Residential Development Control Plan 2003, the DCP

Consideration

4.2 Double Bay precinct
None of the Desired Future Character Objectives or Desired Future Performance Criteria apply to the proposal.

5.14 Inter-War flat buildings

Objective: O 5.14.1

- Objective O 5.14.1 seeks to ensure that the original characteristics of Inter-War flat buildings are retained and protected. Performance criterion C 5.14.7 requires that any additions are not visibly prominent, are not to impact on the overall form and character of the building, and shall be limited to undercroft, underfloor and within roof spaces without changing the overall form of the building. Performance criterion C 5.14.13 requires that the original roof form is not to be altered.

- The proposal seeks to construct two new large gablets to the building’s roof, based on the form and size of the two existing large gablets already incorporated into the building’s roof. Given that there has been at least one large gablet in the roof for more than 70 years, that the original roof form was altered to add another gablet at least 25 years ago, and that the two proposed gablets take their form and size from the two existing gablets and will not impact on the overall form and character of the building, the proposal is supported.

CONCLUSION

The application is generally acceptable as it complies with most of the relevant statutory and policy documents and would have a satisfactory impact.

RECOMMENDATION

Consent. No heritage conservation conditions are required.

Paul Fletcher
Heritage Officer
REFERRAL RESPONSE – FIRE SAFETY

FILE NO: DA 238/2015/1
ADDRESS: 6/276 New South Head Road DOUBLE BAY 2028
PROPOSAL: Alterations & additions to existing residential flat building including 2 bedrooms and a bathroom within the roof for Unit 6 with new dormer windows and internal reconfiguration
FROM: Richard Smith - Fire Safety Officer
TO: Ms S Richards

1. DOCUMENTATION

I refer to the following documents received for this report:
- Statement of Environment Effects, referenced alterations & additional floor area to apartment six (6) prepared by ARCHITECTS INK, undated.
- Architectural Plans, referenced 1, 2, 3 & 4, prepared by ARCHITECTS INK, dated APRIL 2015,

2. RESEARCH

The following research was undertaken in the preparation of this assessment:
- A site inspection was carried out on the following date: 3 June 2015

3. LEGISLATION

A Building Code of Australia (BCA) assessment of this development application is required to satisfy the following statutory provisions of the Environmental Planning & Assessment Regulation 2000.

- Clause 94 – ‘Consent authority may require buildings to be upgraded’
  - Compliance with the BCA if more than 50% of the volume has been changed in the last 3 years
  - Fire safety – to protect persons using the building and facilitate their egress from the building as well as restricting the spread of fire from the building to other buildings

4. BUILDING DESCRIPTION

Type of Construction: A
Class: 2
Number of Storeys: 5
Rise in Storeys: 5

5. ASSESSMENT

Comments have been prepared on the following. Where Approval is recommended, Conditions of Consent follow at the end of the comments.
6.1 Clauses of BCA referenced:

- Smoke alarms table E2.2a of the BCA
- Fire doors clause C3.11 of the BCA

6. RECOMMENDATION

Council’s Fire Safety Officer has determined that the proposal is satisfactory, subject to the following conditions:

A. General Conditions

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

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

C.1 Building upgrade (Clause 94 of the Regulation)

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

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

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

a) That smoke alarms be installed throughout the sole occupancy unit in accordance with the requirements of Specification E2.2a Clause 3 of the BCA.

b) That the entrance doorways of the sole occupancy unit shall have a fire resistance level of /-60/30 and be fitted with an approved self-closing device designed to bring the doors to the fully closed and latched position after each manual operation in accordance with the requirements of AS 1905.1-2005.

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

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

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

Standard Condition: C10
D. Conditions which must be satisfied prior to the commencement of any development work

E. Conditions which must be satisfied during any development work

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 Fire Safety Certificates

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

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

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

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

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

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

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

Note: In this condition:
interim fire safety certificate has the same meaning as it has in Part 9 of the Regulation.
final fire safety certificate has the same meaning as it has in Part 9 of the Regulation.
new building has the same meaning as it has in section 109H of the Act.

Standard Condition: F4

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

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

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

J. Miscellaneous Conditions

K. Advisings

Nil

Richard Smith
Fire Safety Officer

Date: 9 June 2015
LAND AND ENVIRONMENT COURT UPDATE REPORT

ITEM No. D4
FILE No. DA387/2012/2
ADDRESS 28 Bay Street, Double Bay (Royal Oak Hotel)
ZONING B2 Local Centre / General Business 3(a)
TYPE OF CONSENT Local development
EXISTING CONSENT Alterations & additions to the rear of the Royal Oak including a new gaming & covered area and outdoor deck, footpath seating on Bay Street, removal of 1 tree and ancillary landscaping
DATE OF CONSENT 8 October 2013
PROPOSED MODIFICATION Extension of the approved hours of footpath seating to 10am until 11:45pm (Mon-Sat) and 10am until 10:45pm (Sun) for a 1 year trial period
DATE OF CONSENT 16 March 2015
APPLICANT & OWNER Puruse Pty Ltd
AUTHOR Mr D Waghorn
MANAGER Mr N Economou

1. PREAMBLE

The subject Section 96 application was initially presented to the Development Control Committee on 16 February 2015 where the Committee resolved as follows:

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

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

In accordance with the above resolution, a further report incorporating the following:

- The complaints register from the Royal Oak Hotel has been obtained by Staff was provided
- A list of complaints and the like against the Royal Oak Hotel in the Customer Request Management system (CRM) was provided
- The Applicant and Hotel operator have been notified of the date of the Development Control Committee meeting and given a verbal undertaking the will attend the meeting,
was tabled to the Development Control Committee on 16 March 2015 where it resolved to approved the Section 96 application, subject to a number of additional conditions, but specifically included the following:

I.21 **Extended outdoor hours of operation for licensed premises – Reviewable Condition**

The hours of operation for the outdoor seating area in the Bay Street road reserve of the licensed premises are extended from 10pm to 11pm (Mon to Saturday), irrespective of the hours specified in Conditions I.2 and I.10.

This condition is a reviewable condition as referred to under the Act, s.80A (10B-10D). The extended outdoor trading hours will be reviewed in accordance with **Condition I.22**.

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

**Note:** Council’s consideration of the extended hours of operation of licensed premises will take into account:

i) Compliance of the premises in terms of security and its general management;

ii) The number and nature of substantiated complaints regarding the operation of the premises;

iii) Compliance with the conditions of this consent; and

iv) Any other matters considered relevant to the environmental evaluation of the premises.

Standard Condition: I4

I.22 **Review of extended hours of operation for licensed premises**

Council will review the extended trading hours as referred to in **Condition I.21** at any time but must report as follows:

- a) One (1) year following the date of development consent;
- b) Two (2) years following the first review; and
- c) Each five (5) years thereafter.

The review will be undertaken in accordance with the Regulations, cl.124D. This condition has been imposed to mitigate amenity impacts upon the neighbourhood.

**Note:** As a result of a review a reviewable condition may be changed.

**Note:** The review will be presented to the Council Committee that determined the application and all stakeholders will be notified of the meeting

Standard Condition: I5

The original consent (DA387/2012) enabled the Bay Street outdoor seating area to operate between 8am and 10pm Monday to Sunday under Conditions I.2 and I.10. The effect of the aforementioned conditions (I21 & I.22) resulted in the following:

- An increase in the approved hours of outdoor seating to Bay Street by 1 hour on Monday to Saturday but subject to a reviewable condition
- A reduction in the hours of outdoor seating to Bay Street by 45 minutes on Monday to Sunday from what was proposed, and supported by Council staff

The approval of the s96 application was contrary to the Council planning staff recommendation.
2. **LEC APPEAL**

A Class 1 appeal (10324 of 2015) was lodged on 15 April 2015 seeking the modification of the hours of operation of the outdoor seating seating from 10am – 10pm, Monday to Sunday, to 10am – 11:45pm (Mon-Sat) and 10am – 10:45pm (Sun).

Council engaged the services of an acoustic expert – Mr Renzo Tonin and a planning expert – Ms Deborah Laidlaw to support Council’s position in defending the appeal.

On 25 June 2015 a s34 conference was held before Commissioner Dixon where the issue of the outdoor seating was discussed. The matters raised in the s34 Conference are discussed in the Confidential Report.

In accordance with Annexure 1 of Council’s delegations, prospects of success advice were obtained from Council’s Solicitors – Lindsay Taylor Lawyers which is contained in the Confidential Report. The matter is referred to the Development Control Committee for consideration.

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

A. THAT in respect of the appeal to the Land and Environment Court against **Condition I.21** to Development Application No. 2012/387/2 for the extension of the approved hours of footpath seating from 10am – 10pm, Monday to Saturday, to 10am – 11pm (Mon-Sat) on the land at 28 Bay Street Double Bay (Royal Oak Hotel), the Committee resolve to enter into closed session with the press and public excluded to consider the confidential report on this matter in accordance with the provisions of Section 10A(2)(g) of the **Local Government Act, 1993**.

B. THAT in accordance with Council’s policy of confidentiality, the confidential report remain confidential for a period of six (6) months or until the conclusion of the appeal, whichever occurs last.

**Annexures**

Nil
Item No: D5  Delegated to Committee

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

Subject:

Author: Grace Hawley, PA to Manager, Development Control

Approver: Nick Economou, Manager - Development Control

File No: 15/108886

Reason for Report: Update DCC on all Legal Matters

Recommendation:

A. THAT the attached Register of current Land and Environment Court Matters for Development Applications be received and noted.

B. THAT the attached register for Court Proceedings for Building Control, Environmental Control and Health Control be received and noted.

Council at its meeting of 17 August 1994 resolved in the following terms:

THAT the Register of current Land and Environment Court Matters for Development Applications presented in the Development Applications Summary be transferred to the Development Control Committee to be considered at each meeting.

Further, the Development Control Committee at its meeting of 29 March 2010 resolved in the following terms:

THAT a ‘Register of Court Proceedings for Building Control, Environmental Control and Health Control’ be presented to the Development Control Committee at least once a month to highlight the prosecution activities being undertaken by Council’s Compliance section.

Please find attached copies of the current registers.

Annexures

1. Legal Register for DCC
### Development Control

#### Class 1 - Appealed Deemed Refusal

**Awaiting Hearing**

<table>
<thead>
<tr>
<th>Applicant v Respondent</th>
<th>File Ref.</th>
<th>Legal Rep</th>
<th>Address</th>
<th>Officer</th>
<th>Comment</th>
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<tbody>
<tr>
<td>MKD Architects Pty Limited v Woollahra Municipal Council</td>
<td>DA477/2014/2</td>
<td>Wilshe Webb Staunton Beattie</td>
<td>12 Belfour Rd ROSE BAY</td>
<td>Lauren Samuels</td>
<td>This is an appeal against the deemed refusal of a s.96 application for alterations and additions. First directions hearing to be held on 21 July 2015. Joint expert reports to be submitted by 1 October 2015. Listed for hearing on 7-8 October 2015.</td>
</tr>
<tr>
<td>Parker Logan Property Pty Limited v Woollahra Municipal Council</td>
<td>DA111/2015/1</td>
<td>Wilshe Webb Staunton Beattie</td>
<td>9A Cooper Park Rd BELLEVUE HILL</td>
<td>Simon Taylor</td>
<td>This is an appeal against the deemed refusal of an application for the construction of two x three storey residential flat buildings containing a total of 36 units (6 x 1 bed, 2 x 2 bed and 6 x 3 bed) and basement level car parking for 60 vehicles and storage, strata subdivision, landscaping and stawworks. First directions hearing to be held on 3 June 2015. Matter is listed for section 34 conciliation conference at 9.30am on 23 July 2015; and a second directions hearing on 6 August 2015. Conciliation is an appeal against the deemed refusal of a s.96 application for the proposed modifications to the garage, walls, stairs along the boundary, rear deck; swimming pool; retaining wall to the rear of the site; planters and garden and the addition of a pergola (verandah) structure. First directions hearing to be held on 4 August 2015. The matter is set down for hearing on 9 and 12 October 2015.</td>
</tr>
<tr>
<td>Robert Balazs Melenar and Dania Sue Holmar v Woollahra Municipal Council</td>
<td>DA174/2014/2</td>
<td>Lindsay Taylor Lawyers</td>
<td>23 Sutherland Cres DARLING POINT</td>
<td>Renee Coull</td>
<td></td>
</tr>
</tbody>
</table>

#### Class 1 - Appealed Determination

**Awaiting Callover-Mention**

<table>
<thead>
<tr>
<th>Applicant</th>
<th>File Ref.</th>
<th>Legal Rep</th>
<th>Address</th>
<th>Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daniel Gauchat v Woollahra Municipal Council</td>
<td>DA407/2014/1</td>
<td>Lindsay Taylor Lawyers</td>
<td>9 Treble Rd BELLEVUE HILL</td>
<td>Thoamas Wong</td>
</tr>
<tr>
<td>Christian Walter Graeber v Woollahra Municipal Council</td>
<td>DA37/2015/1</td>
<td>Lindsay Taylor Lawyers</td>
<td>22 New South Head Rd Adrian Gilberdale VAUCIUSE</td>
<td></td>
</tr>
</tbody>
</table>

**Awaiting Hearing**

<table>
<thead>
<tr>
<th>Application</th>
<th>File Ref.</th>
<th>Legal Rep</th>
<th>Address</th>
<th>Officer</th>
<th>Comment</th>
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</thead>
<tbody>
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</tr>
<tr>
<td>Applicant v Respondent</td>
<td>File Ref.</td>
<td>Legal Rep</td>
<td>Address</td>
<td>Officer</td>
<td>Comment</td>
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<tr>
<td>Sara Hess Honey v Woollahra Municipal Council</td>
<td>DA534/2011/4</td>
<td>Wilshire Webb Staunton Beattie</td>
<td>3A Buckhurst Ave POINT PIPER</td>
<td>Thomas Wong</td>
<td>This is an appeal against the refusal of an application for the removal of 1 tree along southern boundary and replacement planting and modifications to the driveway. First Directions Hearing to be held on 2 June 2015. Joint expert reports to be filed and served by 14 July 2015. The matter is listed for a hearing on 20 and 21 July 2015. A Section 36AA hearing before Commissioner Pearson commenced on 20/7/2015 on site. The applicant sought an adjournment of the matter with a view to providing alternative expert evidence.</td>
</tr>
<tr>
<td>Awaiting s34 Conference</td>
<td>DA549/2014/1</td>
<td>Wilshire Webb Staunton Beattie</td>
<td>16 Gosbell St</td>
<td>PADSTOW</td>
<td>Thomas Wong</td>
</tr>
<tr>
<td>Jewel Rose Bay Developments Pty Ltd v Woollahra Municipal Council</td>
<td>DA77/2015/1</td>
<td>Norton Rose</td>
<td>635 New South Head Rd ROSE BAY</td>
<td>Eleanor Smith</td>
<td>This is an appeal against the refusal of an application for the demolition of existing dwelling and erection of residential flat building comprising 5 apartments and basement car parking. First directions hearing to be held on 15 July 2015. This matter is listed for a s34 conciliation conference on 17 September 2015, commencing on site at 9:30 am and then returning to Court.</td>
</tr>
<tr>
<td>Panteen Pty Ltd v Woollahra Municipal Council</td>
<td>DA387/2012/2</td>
<td>Lindsay Taylor Lawyers</td>
<td>28 Bay St DOUBLE BAY</td>
<td>David Waggoner</td>
<td>This is an appeal against the conditions of consent of a s96 application for the extension of the approved hours of footpath seating to 10am until 11:45pm (Mon-Sat) and 10am until 10:45pm (Sun) for a 1 year trial period. First directions hearing to be held on 13 May 2015. Section 34 conference set down for 25 June 2015. Section 34 Conference adjourned for further acoustic testing and noise mitigation measures.</td>
</tr>
<tr>
<td>Russell John Aldred &amp; Michael John DA190/2015/1</td>
<td>Wilshire Webb Staunton Beattie</td>
<td>37-37A New South Head Rd VAUCLUSE</td>
<td></td>
<td>David Booth</td>
<td>This is an appeal against the refusal of an application for the removal of an Acrocarpus falcatus (Oxeniqua Yellowwood) tree. First directions hearing to be held on 6 August 2015. The matter is listed for a s34 Conference on 28 and 25 October.</td>
</tr>
</tbody>
</table>

Judgement Verbal - Awaiting Written Judgement
<table>
<thead>
<tr>
<th>Applicant v Respondent</th>
<th>File Ref.</th>
<th>Legal Rep</th>
<th>Address</th>
<th>Officer</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Naum Jacob Onikul &amp; Rite Onikul v Woollahra Municipal Council</td>
<td>DM33/2014/1</td>
<td>Norton Rose</td>
<td>58 John St</td>
<td>Simon Taylor</td>
<td>This is an appeal against the refusal of an application for the demolition of the existing dwelling house and existing structures and the construction of a new part one, part two and part three storey dwelling house with underground parking for two cars from Morton Lane that provides level access to the dwelling; new fences, landscaping and site works. First directions hearing to be held on 26 May 2015. Matter set down for a s34AAA conciliation conference/hearing on 14 and 15 July 2015.</td>
</tr>
</tbody>
</table>

**Class 4 - Orders & Civil Enforcement**

**Awaiting Callover-Mention**
  - First Respondent - Simon Fraser (As Chairman of the Council) of The Scots College
  - Second Respondent - Dr Ian Lambert (As Principal of The Scots College)
  - Third Respondent - The Presbyterian Church (New South Wales)
  - Property Trust, Fourth Respondent
  - Lindsay Taylor Lawyers, BELLEVue HILL

**Judgement Finalised**
- CSK Holdings Pty Ltd v Woollahra DA 2013/0094
  - Lindsay Taylor Lawyers, PADDINGTON

<table>
<thead>
<tr>
<th>Applicant v Respondent</th>
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</tr>
</thead>
<tbody>
<tr>
<td>The applicant is seeking a declaration from the Court relating to student numbers at The Scots College. Matter stood over pending Class 1 Appeal. Following a request by Scots College, made with the consent of CSN, the Court has now ordered that the Proceedings are adjourned to 28 November 2014. The proceedings are further adjourned pending an outcome of the s56 Class 1 appeal. The matter has been stoodover until 24 July 2015. Matter adjourned to 14 August 2015.</td>
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</tbody>
</table>

This is a Class 4 summons which orders the Respondent within 14 days to determine a development application. This summons is listed for 25 July 2014. The matter has been adjourned for 1 week. A directions hearing has been scheduled on 1 August 2014. This matter will more than likely be adjourned at this directions hearing until 22 August 2014 as agreed by Tony Sattler to Stuart Slimington to allow DCC to determine the matter or 18 August 2014. Formal orders as follows: a. Amended
Woollahra Municipal Council Legal Matter
Parker Logan Property Pty Limited v Woollahra Municipal Council
9A Cooper Park Rd, BELLEVUE HILL

Jurisdiction: Land & Environment Court
Court Matter No.: 10387 of 2015
Penalty Infringement Number:
Type of Matter: Class 1 - Appealed Deemed Refusal
Council File Reference: DA111/2015/1
Status: Awaiting Hearing
F1 Account Number: 141.3520.A063

Precis

This is an appeal against the deemed refusal of an application for the construction of two x three storey residential flat buildings containing a total of 36 units (6 x 1 bed, 24 x 2 bed and 6 x 3 bed) and basement level car parking for 60 vehicles and storage, strata subdivision, landscaping and siteworks. First directions hearing to held on 3 June 2015. Matter is listed for section 34 conciliation conference at 9.30am on 23 July 2015; and a second directions hearing on 6 August 2015. Conciliation hearing terminated. The matter is set down for hearing on 22-23 October 2015.

Parties to Proceeding
Land to which proceeding relates
Critical Dates
Our Legal Team for this matter
Company Search
Judgement
Staff Responsibility and Remarks
Woollahra Municipal Council Legal Matter
Sara Hess Roney v Woollahra Municipal Council
3A Buckhurst Ave, POINT PIPER

Jurisdiction: Land & Environment Court
Court Matter No.: 10404 of 2015
Penalty Infringement Number:
Type of Matter: Class 1 - Appealed Determination
Council File Reference: DA534/2011/4
Status: Awaiting Hearing
F1 Account Number: 141.3620.A062

Precis

This is an appeal against the refusal of an application for the removal of 1 tree along southern boundary and replacement planting and modifications to the driveway. First Directions Hearing to be held on 2 June 2015. Joint expert reports to be filed and served by 14 July 2015. The matter is listed for a hearing on 20 and 21 July 2015. A Section 34AA hearing before Commissioner Pearson commenced 20/7/2015 on site. The applicant sought an adjournment of the matter with a view to providing the further information sought by Council’s Tree Officer as to the health of the tree. As the applicant has agreed to conduct the further investigations required by Council the applicant’s application for an adjournment was not opposed. The matter is now listed for a mention before Commissioner Pearson at 4.15pm on Monday 17 August 2015. The applicant’s arborist will provide further information to Council’s Tree Officer.

Parties to Proceeding
Land to which proceeding relates
Critical Dates
Our Legal Team for this matter
Company Search
Judgement
Staff Responsibility and Remarks
Woollahra Municipal Council Legal Matter
Naum Jacob Onikul & Rita Onikul v Woollahra Municipal Council
58 John St, Woollahra

Jurisdiction: Land & Environment Court
Court Matter No.: 10365 of 2015
Penalty Infringement Number:
Type of Matter: Class 1 - Appealed Determination
Council File Reference: DA433/2014/1
Status: Judgement Verbal - Awaiting Written Judgement
F1 Account Number: 141.3620.A060

Precis
This is an appeal against the refusal of an application for the demolition of the existing dwelling house and existing structures and the construction of a new part one, part two and part three storey dwelling-house with underground parking for two cars from Morton Lane that provides level access to the dwelling; new fences, landscaping and siteworks. First directions hearing to be held on 26 May 2015. Matter set down for a s34AA conciliation conference/hearing on 14 and 15 July 2015. Judgement reserved. Preliminary judgement - appeal upheld. Amended plans to be submitted.

Parties to Proceeding
Land to which proceeding relates
Critical Dates
Our Legal Team for this matter
Company Search
Judgement
Staff Responsibility and Remarks
Woollahra Municipal Council Legal Matter
CSKS Holdings Pty Ltd v Woollahra Municipal Council
2-4 Quarry St, PADDINGTON

Jurisdiction: Land & Environment Court
Court Matter No.: 40459/2014
Penalty Infringement Number:
Type of Matter: Class 4 - Orders & Civil Enforcement
Council File Reference: DA 2013/0094
Status: Judgement Finalised
F1 Account Number: 141-3620-A003

Precis

This is a Class 4 Summons which orders the Respondent within 14 days to determine a development application. This summons is listed for 25 July 2014. The matter has been adjourned for 1 week. A directions hearing has been scheduled on 1 August 2014. This matter will more than likely be adjourned at this directions hearing until 22 August 2014 as agreed by Tony Sattler to Stuart Simington to allow DCC to determine the matter on 18 August 2014. Formal orders as follows:
a. Amended summons and Applicant’s evidence by 29 August 2014;

Parties to Proceeding
Land to which proceeding relates
Critical Dates
Our Legal Team for this matter
Company Search
Judgement
Staff Responsibility and Remarks
<table>
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<tr>
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<tr>
<td><strong>Building Control</strong></td>
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</tr>
<tr>
<td>Awaiting Callover-Mention</td>
<td>Order 3/2014</td>
<td>Wildfire Webb</td>
<td>32 Adelaide St</td>
<td>Patrick Cameron</td>
<td>Court appearance Notice for Penalty Infringement Notice 3112/95420 issued for development undertaken without consent, First mention 11 August 2015.</td>
</tr>
<tr>
<td>Woollahra Municipal Council v Galambos Holdings Pty Ltd</td>
<td></td>
<td>Staunton Beattie</td>
<td>WOOLLAHRA</td>
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</tr>
<tr>
<td>(Not Categorized)</td>
<td>Order 126/2014</td>
<td>Lindsay Taylor</td>
<td>19 Allon St WOOLLAHRA</td>
<td>Sarah Pritchard</td>
<td>Class 4 action to enforce the requirements of Council's Order 126/2014 to demolish the unauthorised third storey to the dwelling.</td>
</tr>
<tr>
<td>Woollahra Municipal Council v A F Edwards</td>
<td></td>
<td>Lawyers</td>
<td></td>
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<tr>
<td><strong>Health Control</strong></td>
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</tr>
<tr>
<td>Awaiting Hearing</td>
<td>Authority 30.2014.185</td>
<td>Lindsay Taylor</td>
<td>63 Fitzwilliam Road</td>
<td>Louie Salvatore</td>
<td>Class 4 proceedings for failing to comply with Council's 'waste removal order' issued on 30 June 2014 pursuant to Item 22A under Section 124 of the Local Government Act 1993. On 31 July 2015, Respondent did not attend and matter stood over to 21 August 2015 to permit negotiations to continue between the parties.</td>
</tr>
<tr>
<td>Woollahra Municipal Council v Leon Goldberg</td>
<td></td>
<td>Lawyers</td>
<td>VAUCCLUSE</td>
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</tr>
</tbody>
</table>
Political Donations – matters to be considered by Councillors at Meetings

Matter before Committee or Council Meeting

Did the applicant, owner (if not the applicant) or someone close to the applicant make a donation in excess of $1,000 that directly benefited your election campaign?

(Code of Conduct Cl 4.21)

No

Did the applicant or someone close to the applicant make a donation less than $1,000 that directly benefited your election campaign?

(Code of Conduct Cl 4.2)

No

No

No

Yes

No

Yes

Staff to record decision process (motions/amendments) and Division of votes for the determinative resolution or recommendation in the meeting minutes.

Is the matter before the meeting a Planning Matter?

Yes

Action

Participate in debate and vote on the matter

Action

Consider appropriate action required.
This could include limiting involvement by:
1. participating in discussion but not in decision making (vote),
2. participating in decision making (vote) but not in the discussion
3. not participating in the discussion or decision making (vote)
4. removing the source of the conflict

Yes

Action

Declare a significant non-pecuniary conflict of interest, absent yourself from the meeting and take no further part in the debate or vote on the matter
(Code of Conduct Cl 4.16(b))

Yes

Do you believe the political contribution creates a significant non-pecuniary conflict of interest for you?
(Code of Conduct Cl 4.23)

No

Yes

Action

Declare a significant non-pecuniary conflict of interest, absent yourself from the meeting and take no further part in the debate or vote on the matter
(Code of Conduct Cl 4.16(b))

Staff to record decision process (motions/amendments) and Division of votes for the determinative resolution or recommendation in the meeting minutes.

Did the applicant, owner (if not the applicant) or someone close to the applicant make a donation in excess of $1,000 that directly benefited your election campaign?

(Code of Conduct Cl 4.21)

Yes

No

Staff to record decision process (motions/amendments) and Division of votes for the determinative resolution or recommendation in the meeting minutes.