

# Council Meeting

Monday 23 August 2010

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## **Items Determined Under Delegated Authority by Council Committees**

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

### **Corporate & Works Committee Meeting held on Monday 16 August 2010**

- D1 Confirmation of Minutes of Meeting held on 19 July 2010
- D2 Monthly Financial Report – July 2010

### **Development Control Committee Meeting held on Monday 16 August 2010**

- D1 Confirmation of Minutes of Meeting held on 2 August 2010
- D2 DA235/2010 - 93 Holdsworth Street, Woollahra – Alterations & additions to existing dwelling, landscaping & siteworks – 21/5/2010
- D3 DA476/2006 Part 8 – 1A Clairvaux Road, Vaucluse – Section 96 Application – Proposed on internal & external alternations including a proposed diesel generator in an approved roof-top enclosure – 16/4/2010
- D4 DA432/2008 – 538-544 Old South Head Road, Rose Bay – Demolition of existing building & all associated structures, construction of a new mixed use development comprising of a retail level, 19 residential apartments & basement level parking for 77 cars – 10/7/2008
- D5 DA684/2009 – 65 Goodhope Street, Paddington – Alterations & additions to existing building including new swimming pool & alterations to existing garage – 24/12/2009 – **(See Item R3)**
- D6 DA345/2009 – 12 Longworth Avenue, Point Piper – Alterations & additions to existing apartment building including the addition of a new unit & new car parking – 13/7/2009
- D7 DA49/2010 – 500-502 Glenmore Road, Paddington – Change of use from retail to commercial office space, alterations & additions to existing terrace, shop & storage building, new commercial addition – 12/2/2010
- D8 DA385/2009 - 114 Wolseley Road, Point Piper – Demolition of existing dwelling & construction of new dwelling – 30/7/2009 – **(See Item R4)**
- D9 Register of Current Land and Environment Court Matters and Register of Court Proceedings for Building Control, Environmental Control & Health Control
- D10 Register of SEPP 1 Objections

### **Urban Planning Committee Meeting held on Monday 9 August 2010**

- D1 Confirmation of Minutes of Meeting held on 26 August 2010

### **Community & Environment Committee Meeting held on Monday 9 August 2010**

- D1 Confirmation of Minutes of Meeting held on 26 July 2010
- D2 Woollahra Local Traffic Committee Minutes – 3 August 2010
- D3 Community Facilities Report - Usage levels

### **Strategic & Corporate meeting held 11 September 2010 – Nil D Items**



# Council Meeting

**Minutes of the Meeting of Woollahra Municipal Council  
held at the Council Chambers, Double Bay, on  
Monday 23 August 2010 at 8.00pm.**

Present: His Worship The Mayor, Councillor Andrew Petrie  
Councillors Anthony Boskovitz  
Sean Carmichael  
Peter Cavanagh  
Nicola Grieve  
Susan Jarnason  
Greg Medcraft  
Ian Plater (from C&E Item R1)  
Isabelle Shapiro  
David Shoebridge  
Susan Wynne  
Malcolm Young  
Toni Zeltzer

Staff: Allan Coker (Director – Planning & Development)  
Stephen Dunshea (Director – Corporate Services)  
Gary James (General Manager)  
Tom O’Hanlon (Director – Technical Services)  
Vicki Munro (Acting Director – Community Services)  
Les Windle (Manager – Governance)

Also in Attendance: Nil

## Confirmation of Minutes

(Shapiro/Zeltzer)

**1/15** THAT the Minutes of the Council Meeting held on 9 August 2010 be taken as read and confirmed.

**Adopted**

(Shapiro/Cavanagh)

**2/15** THAT the Minutes of the Strategic & Corporate Committee Meeting held on 11 August 2010 be taken as read and confirmed.

**Adopted**

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## Leave of Absence

(Boskovitz/Cavanagh)

**3/15** That leave of absence for all meetings of the Council and its Committees be granted to The Mayor Councillor Andrew Petrie for the period Saturday 28 August 2010 to Sunday 5 September 2010, inclusive.

**Adopted**

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## Apologies

Nil

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## Declarations of Interest

Councillor Young declared a Pecuniary Interest in Corporate and Works Committee Item No. R1 (Meeting Fee for Councillors Attending Joint Regional Panel (JRPP) Meetings) as he is Council's representative on the Joint Regional Planning Panel. Councillor Young left the meeting and did not participate in the debate or vote on the matter.

Councillor Young declared a Pecuniary Interest in Development Control Committee Item No. R1 (40 Wentworth Road & 47-49 Vaucluse Road, Vaucluse) as he is Council's representative on the Joint Regional Planning Panel. Councillor Young left the meeting and did not participate in the debate or vote on the matter.

Councillor Zeltzer declared a Pecuniary Interest in Corporate and Works Committee Item No. R1 (Meeting Fee for Councillors Attending Joint Regional Panel (JRPP) Meetings) as she is Council's representative on the Joint Regional Planning Panel. Councillor Zeltzer left the meeting and did not participate in the debate or vote on the matter.

Councillor Zeltzer declared a Pecuniary Interest in Development Control Committee Item No. R1 (40 Wentworth Road & 47-49 Vaucluse Road, Vaucluse) as she is Council's representative on the Joint Regional Planning Panel. Councillor Zeltzer left the meeting and did not participate in the debate or vote on the matter.

## Suspension of Standing Orders

(Young)

- 4/15 That Standing Orders be suspended to allow him to advise Council of the recent Cooper Ward Community Meeting.

**Adopted**

**The Mayor ruled Urgency and permitted the Suspension of Standing Orders.**

**Councillor Young advised:**

The 3 Councillors who represent the Cooper Ward had a Ward meeting on 12 August 2010, a Thursday night, at the Goethe-Institut Australien. It was pretty well packed, if any of you know that upstairs main room in the Goethe-Institut, a lovely building and we had an excellent turn out.

The Mayor chaired it and of course Councillor Shoebridge and I were there. We had some items which very obviously were subjects of hot debate, one of them was the opportunity site the old Edgecliff Station that never was, the railway cutting site. Another of the sites was the Edgecliff Centre itself and the Mayor foreshadowed, I think much to the relief of many of those there, that he would be delivering a Mayoral Minute about those items which in fact is going to be before us shortly. There was a lot of interest in the proposed boarding house at 370 Edgecliff Road. A number of very concerned residents, and there was also, although I had to for JRPP reasons absent myself from that bit, there were discussions of those 4 somewhat dilapidated house properties going up the hill from Double Bay to Edgecliff, 315-317 New South Head Road, and there was a deal of debate about that, and then there were also the other concerns. A couple of concerns raised in fact have given rise to Notices of Motions tonight. We will move those in Council.

For those Councillors who have not yet partaken of a Ward meeting, I can thoroughly recommend it, you really feel that you are getting there. We even got a round of applause at the end. I would like to thank the staff for organising that night, there was Tony there and other staff. The locals for us in Cooper Ward was excellent and I thoroughly recommend the whole thing for those Councillors who have not had a Ward meeting.

The Council noted the information.

(Medcraft)

- 5/15 That the Suspension of Standing Orders continue to allow him to advise Council of the City of Sydney Green Infrastructure Masterplan meeting that he and Councillor Jarnason attended last week.

**Adopted**

**The Mayor ruled Urgency and permitted the continuation of the Suspension of Standing Orders.**

**Councillor Medcraft advised:**

Councillor Jarnason and I attended a Green Infrastructure Masterplan meeting at City of Sydney last Thursday. I wanted to point it out because it was quite interesting what City of Sydney is proposing and it is relevant to Woollahra. What they are looking to do is, in the central city, is ultimately take City of Sydney off the grid over the next few years. They are looking to sell electricity in competition with Sydney electricity suppliers but at a lower or equal price to the consumer and ultimately could be that it ends up as a private public infrastructure project. They expect to see 70% of electricity coming from tri-generation gas fired power and 30% from renewable energy. I thought it was of interest for us, and one of the options for Woollahra, to keep in close contact, it could be that it is an opportunity for us to potentially work with the City of Sydney in the future with that. It was a very interesting outline of their plan and they are very keen to share what they are doing and I was very pleased to think that Woollahra has adopted a plan over the next few years that we will reduce energy usage by 30%.

The Council noted the information.

**(Zeltzer)**

- 6/15 That the Suspension of Standing Orders continue to allow her to congratulate the Federal Member for Wentworth, Malcolm Turnbull on his re-election.

**Adopted**

**The Mayor ruled Urgency and permitted the continuation of the Suspension of Standing Orders.**

**Councillor Zeltzer advised:**

I would like to congratulate our Federal Member for Wentworth, Malcolm Turnbull for a magnificent performance with an 11.5% swing towards him. Two terms ago when he first ran for office for this particular electorate it was considered exceedingly marginal and we had pollies from all over the place coming in to help. It is amazing that now, with those numbers, it would be considered a safe seat, if any seat could ever be considered safe. In a couple of the booths, particularly down at the beach at Bondi Beach there was about a 10% swing towards the Liberals and over at Randwick there was a 20% swing at some of those booths. I think he needs to be congratulated particularly because his strong convictions caused this kind of immense improvement in his standing.

The Council noted the information.

**(Boskovitz)**

- 7/15 That the Suspension of Standing Orders continue to allow him to give a brief summary to Council on the One Association Convention that he recently attended.

**Adopted**

**The Mayor ruled Urgency and permitted the continuation of the Suspension of Standing Orders.**

**Councillor Boskovitz advised:**

I attended the One Association Local Government Convention on behalf of Woollahra Council which was held at the Grand Ballroom, Star City in Sydney last Monday.

It was originally set down to be a 2 day conference but was reduced to about three quarters of a day because a number of the issues had been nipped out quite sufficiently by members of the Committee and there was not a huge amount of discussion needed. I will take Council through the discussions in that conference so that I can make all Councillors aware of what occurred.

The Conference started in the morning and we were addressed by Genia McCafferty who is the President of the Local Government Association. She highlighted the fact that, while many of these decisions are very important they won't have the authority at this point in time and that recommendations will be put up to the individual association conferences. Obviously we are a member of the Local Government Association. That was followed by Bruce Miller who is the President of the Shires Association. He gave a quick speech as well as Ian Nickell who is the former President of the Western Australia Local Government Association who had gone down this path some years ago of combining the two associations into one.

This was followed by the substantive part of the agenda which was the discussion of a number of different recommendations which were put forward. There were 40 recommendations, many of which weren't moot points, but a few of which were.

Following is a summary of the matters discussed:

- The structure of the Association and the issue of regions. It was quite unanimous that there be 2 regions. There is still some work to go on the naming of the regions and the areas to be in those regions.
- The voting rights issue was quite contentious and the issue of proportional representation was also discussed. It was agreed that there should be some sort of proportional representation investigated and put to the individual Associations at a future time.
- The size of the Board of Directors was another issue. The recommendation was for 8 metropolitan and 8 regional representatives and 1 President and that was changed to 12 metropolitan and 12 regional representatives and 1 President.
- The term length was decided for the President to be 4 years and unlimited in length, subject to being elected, for the other positions on the Board.
- The rights of associated members wasn't discussed because the associate membership was changed so that County Councils and NSW Aboriginal Land Councils were offered the same rights as ordinary members.

There were no binding votes taken so there will be voting at the individual association meetings later this year and next year. If anyone would like more information as to what occurred I am more than happy to take people through it if they wish.

The Council noted the information.

## Mayoral Minute

**Mayoral Minute No:** 1

**Subject:** Woollahra Principal LEP - Opportunity Sites

**Author:** Councillor Andrew Petrie, Mayor of Woollahra

**File No:** 1064.G

**Reason for Report:** To obtain Council's decision on the removal of two sites from the list of properties being investigated for the increased residential density as part of the Woollahra Principal LEP process.

(Petrie/Shoebridge)

**Resolved:**

- 8/15 That the Woollahra Station opportunity site, between Edgecliff Road and Wallaroy Road, Woollahra, and the Edgecliff Centre opportunity site at 203-233 and 235-285 New South Head Road, Edgecliff, be removed from the list of opportunity sites being investigated as part of the Woollahra Principal LEP process.

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Councillors will be aware of the State Government's direction to Woollahra Council within the Sydney Metropolitan Strategy and Draft East Sub-regional Strategy to facilitate additional housing. This direction is being taken up through the new Woollahra Principal LEP, which is currently being prepared. The Council has been given a target of 2900 additional dwellings by 2031 of which 2175 are to be accommodated through planning measures within the Woollahra Principal LEP. Dwelling targets have also been set for the other local government areas within the Greater Sydney Metropolitan area.

Our Strategic Planning Department has commenced work on identifying possible ways in which additional housing may occur across the Municipality. Part of the process has involved selecting sites which meet specified planning criteria. These properties are referred to as "opportunity sites".

The process has advanced to the stage where sites have been exhibited for public comment. Input has also been sought from NSW State departments and agencies where relevant.

We have received a large number of submissions, with particular sites attracting more attention than others. The former Woollahra Station site, off Edgecliff and Wallaroy Roads, and the Edgecliff Centre site were the subject of considerable public comment. We have also received submissions from RailCorp about both sites.

RailCorp initially advised us it did not oppose a rezoning for most of the former Woollahra Station site from its current special use zone to a residential zone. On that basis we proceeded to include the site, with the exception of the small park off Edgecliff Road, as one of our opportunity sites.

RailCorp has reviewed its position about rail corridors and has been advising councils of its desire to retain a special purpose zone. We have been advised that RailCorp wishes to have the current special use zone converted to a SP-Infrastructure zone.



RailCorp has, however, indicated it may consider rezoning part of the site located between the railway line and the rear of properties fronting Edgecliff Road from the current special use zone to a residential zone. Because this land has no direct access from a street, RailCorp has stressed the need for Council to investigate how access could be provided and how the land could be developed for residential purposes. Council would also need to identify an appropriate zone to make residential redevelopment viable. Without this information RailCorp would not support a rezoning of the land.

In view of the changed circumstances for a substantial part of this opportunity site, and the difficulties with developing residual portions, it is not realistic or efficient for the Council to continue planning investigations for the lands. Therefore, I recommend that the former Woollahra Station site be removed from the list of opportunity sites.

I turn now to the opportunity site known as the Edgecliff Centre which comprises land over the interchange and land on the corner of New South Head Road and New McLean Street. This combined site is identified as a key opportunity site in the strategy to deliver additional housing. The land has a mixture of private and public ownership. The Eastpoint Owners' Corporation own the air rights above the current bus station, commencing from a height of approximately 11 metres from the bus platform.

Our planners have held meetings about the development possibilities over the interchange component of the site with numerous government agencies, including RailCorp, NSW Department of Planning, Transport NSW, State Transit Authority, Roads and Traffic Authority, Sydney Buses, Transport and Infrastructure Development Corporation.

A meeting has also been held with the owners of the land on the corner of New McLean Street. A meeting has yet to be held with representatives from the Eastpoint Owners' Corporation. However, a submission challenging the validity of the opportunity site has been made by consultants on behalf of the Eastpoint and Oceanpoint Owners' Corporation.

There has been a mixed response from the government bodies. Some authorities such as the Department of Planning and the Transport and Infrastructure Corporation have been reasonably open-minded and supportive. Whilst understanding the difficulties of the site, and seeing the need for information on the viability of redevelopment, these authorities have also seen the potential for redevelopment.

Strong scepticism has come from RailCorp mainly due to its views on a combination of issues including the complexities of land ownership, the potential impact on operations, and the difficulties of construction. In its latest correspondence to the Council, RailCorp has indicated it is not in a position to support the Council's proposal due to the "unknown outcomes of a viability study and Body Corporate position." RailCorp has therefore lodged a formal objection to the proposed planning changes for the Edgecliff Centre opportunity site.

It is evident from work to date that the Council is being asked to carry out very substantial investigations on the viability of redevelopment to justify the proposed planning control changes. In particular, a great deal of additional analysis would be required to meet the concerns of RailCorp.

Although redevelopment might not be overruled as a longer term possibility, there is sufficient concern at this time to remove the site from the current planning process.

Councillor Andrew Petrie  
Mayor

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## Corporate & Works Committee

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### Items with Recommendations from the Committee Meeting of Monday 16 August 2010 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** **Meeting Fee for Councillors Attending Joint Regional Planning Panel (JRPP) Meetings**  
**Author:** Les Windle - Manager Governance  
**File No:** 696.G  
**Reason for Report:** For Council to consider the level of remuneration to be paid to Councillors attending JRPP Meetings.

**Note:** Councillor Young declared a Pecuniary Interest in this Item as he is Council's representative on the Joint Regional Planning Panel. Councillor Young left the meeting and did not participate in the debate or vote on the matter.

**Note:** Councillor Zeltzer declared a Pecuniary Interest in this Item as she is Council's representative on the Joint Regional Planning Panel. Councillor Zeltzer left the meeting and did not participate in the debate or vote on the matter.

(Medcraft/Shoebridge)

**9/15 Resolved without debate:**

That Council adopt a fee of \$600 for Councillors attending formal meetings of the Joint Regional Planning Panel.

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**Item No:** R2 Recommendation to Council  
**Subject:** **Facilities Cleaning Services Tender 10/09**  
**Author:** Purchasing Coordinator – Dave Byatt  
**File No:** 10/09  
**Reason for Report:** To recommend to Council the acceptance of a tender

(Medcraft/Shoebridge)

**10/15 Resolved without debate:**

A. That Council accept a tender from ADZ Cleaning Services Pty Ltd to carry out the Facilities Cleaning Service for a period of three years (with Council having the option to extend for a further two periods of twelve months) for the lump sum of \$231,524.80 (excluding GST) for the first year subject to annual CPI price reviews.

B. That successful and unsuccessful tenderers be advised of the outcome of the tender process.

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**Item No:** R3 Recommendation to Council  
**Subject:** **23 Victoria St, Watsons Bay - Proposed Easement to Formalise Encroachments on the Road Reserve**  
**Author:** Anthony Sheedy, Property Officer  
**File No:** 524.23  
**Reason for Report:** To formalise encroaching structures on the road reserve area by adjoining owner of 23 Victoria St, Watsons Bay.

**Note:** Confidential late correspondence was tabled at the meeting from Council's Manager Property and Projects, Zubin Marolia.

**Motion moved by Councillor Boskovitz**  
**Seconded by Councillor Zeltzer**

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

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

That the matter be referred back to the Corporate and Works Committee for consideration.

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

(Shoebridge/Wynne)

**11/15 Resolved:**

That the matter be referred back to the Corporate and Works Committee for consideration.

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## Development Control Committee

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### Items with Recommendations from the Committee Meeting of Monday 16 August 2010 Submitted to the Council for Determination

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- Item No:** R1 Recommendation to Council
- Subject:** **40 Wentworth Road & 47-49 Vaucluse Road, Vaucluse – Consolidation of the 3 sites, demolition of the existing pool & alterations & additions to the existing dwelling-house at 40 Wentworth Road, total demolition of the existing dwelling-houses at 49 & 47 Vaucluse Road & erection of a 2 storey module linked to the dwelling-house on 40 Wentworth Road containing 13 off-street car parking spaces, guest accommodation, gymnasium & pool structure, landscaping & siteworks – 30/6/2010**
- Author:** David Booth – Senior Assessment Officer
- File No:** DA310/2010
- Reason for Report:** In accordance with the NSW Government - Department of Planning, Procedures for the Operation of Joint Regional Planning Panels, this matter is referred to full Council to consider if it wishes to make a submission for the Panel to consider in its determination of the application.
- Note:** Councillor Young declared a Pecuniary Interest in this Item as he is Council's representative on the Joint Regional Planning Panel. Councillor Young left the meeting and did not participate in the debate or vote on the matter.
- Note:** Councillor Zeltzer declared a Pecuniary Interest in this Item as she is Council's representative on the Joint Regional Planning Panel. Councillor Zeltzer left the meeting and did not participate in the debate or vote on the matter.

(Shapiro/Cavanagh)

**12/15 Resolved without debate:**

That Council advises the Joint Regional Planning Panel (JRPP), that it raises no objection to the granting of development consent to Development Application No. 310/2010 for the consolidation of the 3 sites, the demolition of the existing pool and alterations and additions to the existing dwelling-house at 40 Wentworth Road, the total demolition of the existing dwelling-houses at 49 & 47 Vaucluse Road and the erection of a 2 storey module linked to the dwelling-house on 40 Wentworth Road containing 13 off-street car parking spaces, gymnasium, guest accommodation and pool structure, landscaping and siteworks, subject to the conditions recommended in the officer's report with the following amendments.

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

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

- a) In order to maintain views to 38A Wentworth Rd, no tree, shrub or any building or other structure, whether permanent or temporary, shall at any time be cultivated or erected, built or placed or permitted to be or grow in the two areas shown as bubbled on Dwg DA 02-1104, revision A prepared by Tzannes Associates, above reduced level 46 m and 44.5 m (RL 46 & 44.5) Australian Height Datum.
- b) In order to maintain the symmetry of the Wentworth Rd internal entry, the 2 large pots flanking the entry are to be retained.
- c) The masonry wet edge to the pool is to be faced in stone.

**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.

**I.5 View Corridor Maintenance (38A Wentworth Rd)**

In order to maintain views to 38A Wentworth Rd, no tree, shrub or any building or other structure, whether permanent or temporary, shall at any time be cultivated or erected, built or placed or permitted to be or grow in the two areas shown as bubbled on Dwg DA 02-1104, revision A prepared by Tzannes Associates, above reduced level 46 m and 44.5 m (RL 46 & 44.5) Australian Height Datum.

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

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

Councillor Boskovitz  
 Councillor Cavanagh  
 Councillor Medcraft  
 Councillor Wynne  
 Councillor Shapiro  
 Councillor Jarnason  
 Councillor Shoebridge  
 Councillor Carmichael  
 Councillor Grieve  
 Councillor Petrie

Nil

***10/0***

**Item No:** R2 Recommendation to Council  
**Subject:** **Public Access between Eastbourne Road & Water Foreshore**  
**Author:** Thomass Wong – Senior Assessment Officer  
**File No:** DA712/2000 Part 25  
**Reason for Report:** In accordance with Council’s meeting procedures and policy this matter had previously been to full Council.

(Shoebridge/Grieve)

**13/15 Resolved:**

- A. THAT Council serve an order 15 under section 121B of the Environmental Planning and Assessment Act upon the owner lot 1 Community Property DP270253 to require compliance with Condition 30 of the Development Application No. 712/2000 consent.
- B. THAT the matter be reviewed by the Development Control Committee on receipt of a response from the owner.
- C. THAT in accordance with Council’s Policy of Confidentiality, the confidential report remains confidential for a period of six (6) months.

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

***For the Motion***

***Against the Motion***

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

Nil

***12/0***

**Item No:** R3 Recommendation to Council

**Subject:** **65 Goodhope Street, Paddington – Alterations & additions to existing building including new swimming pool & alterations to existing garage – 24/12/2009**

**Author:** Thomass Wong – Assessment Officer

**File No:** DA684/2009

**Reason for Report:** In accordance with Council's meeting procedures and policy this matter is called to full Council by Councillor Cavanagh for the following reasons:  
The streetscape resolution is of wide community interest and intrusive development into the street, affect light and shadow of adjoining neighbour.

**Note:** Late correspondence was tabled by Council's Senior Assessment Officer Thomass Wong, Robyn Attuell of The Paddington Society, Graham Hall, Andrew & Sarah Moss, Catherine Hart, Brenda Bristow & J Anton Ormaechea.

**Motion moved by Councillor Shapiro**  
**Seconded by Councillor Jarnason**

That the staff recommendation submitted to the Development Control Committee on 16 August 2010 for approval of the application be adopted subject to amending Condition A.3 (Approved Plans and supporting documents) as recommended in the late correspondence from Council's Senior Assessment Officer Thomass Wong to reflect the amended plans for the proposal.

**Amendment moved by Councillor Young**  
**Seconded by Councillor Wynne**

THAT the Council, refuse Development Application No. 684/2009 for alterations and additions to existing building including new swimming pool and alterations to existing garage on land at 65 Goodhope Street Paddington, for the following reasons:

- That the façade design is unsympathetic to its streetscape context within the Paddington Conservation Area.
- The lack of deep soil landscaping and insufficient private open space.

**The Amendment was put and lost**  
**The Motion was put and adopted**

**(Shapiro/Jarnason)**

**14/15 Resolved:**

THAT the Council, as the consent authority, grant development consent to Development Application No. 684/2009 for alterations and additions to existing building including new swimming pool and alterations to existing garage on land at 65 Goodhope Street Paddington, subject to the following conditions:

## A. General Conditions

### A.1 Conditions

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

Standard Condition: A1

### A.2 Definitions

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

***Applicant*** means the applicant for this Consent.

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

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

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

***Council*** means Woollahra Municipal Council

***Court*** means the Land and Environment Court

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

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

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

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

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

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

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



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

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

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

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

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

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

**Work** for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, 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.

Reference	Description	Author/Drawn	Date(s)
10509-A:001 (Issue A)	Existing L/G Floor Plan	Bernard The Howell Architect	24/06/2010
10509-A:002 (Issue D)	Ground Floor Plan		19/08/2010
10509-A:003 (Issue E)	Level 1 Floor Plan		19/08/2010
10509-A:004 (Issue C)	Roof Plan		12/05/2010
10509-A:200 (Issue E)	West Elevation		19/08/2010
10509-A:201 (Issue A)	East Elevation		22/12/2009
10509-A:202 (Issue C)	South Elevation		01/06/2010
10509-A:300 (Issue D)	Section A-A		27/05/2010
10509-A:301 (Issue A)	Pool Section		24/03/2010
A74448	BASIX Certificate		Department of Planning

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

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

Standard Condition: A5

#### **A.4 Development Consent is not granted in relation to these matters**

This approval does not give consent to **the installation and operation of Air Conditioning Plant**. A separate Development Consent or Complying Development Certificate and Part 4A Certificates, as appropriate, will need to be obtained prior to such development work commencing.

Standard Condition: A9

#### **A.5 Prescribed Conditions**

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

**Note:** It is the responsibility of those acting with the benefit of this consent to comply with all prescribed conditions under the *Act* and the *Regulation*. Free access can be obtained to all NSW legislation at

[www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

Standard Condition: A30

### **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) The timber louvers to the front balcony on the first floor shall be equipped with special device that only allows these louvers to be adjusted to 45 degree maximum.
- b) The roof to master bedroom and walk-in ensuite on the first floor shall be amended in accordance with hand-drawn detail shown on plan numbered 10509-A:003 and 10509-A:201, drawn by Bernard The Howell Architect with Council Received stamped dated 23 Jul 2010.

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

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

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

Standard Condition: C4

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

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

Description	Amount	Indexed	Council Fee Code
<b>LONG SERVICE LEVY</b> under Building and Construction Industry Long Service Payments Act 1986			
<b>Long Service Levy</b> <a href="http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm">http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm</a>	Contact LSL Corporation or use online calculator	No	
<b>SECURITY</b> under section 80A(6) of the Environmental Planning and Assessment Act 1979			
<b>Property Damage Security Deposit</b> -making good any damage caused to any property of the Council	\$14,400	No	T115
<b>DEVELOPMENT LEVY</b> under Woollahra Section 94A Development Contributions Plan 2009 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> .			
<b>Development Levy</b> (Section 94A)	\$6,200 + Index Amount	Yes, quarterly	T96
Security Administration Fee	\$175	No	T16
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	\$20,775 plus any relevant indexed amounts and long service levy		

### Building and Construction Industry Long Service Payment

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

#### How must the payments be made?

Payments must be made by:

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

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

- The guarantee is by an Australian bank for the amount of the total outstanding contribution;

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

#### **How will the section 94A levy be indexed?**

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2009 sets out the formula and index to be used in adjusting the s.94A levy.

#### **Do you need HELP indexing the levy?**

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

#### **Deferred periodic payment of section 94A levy under the Woollahra Section 94A Development Contributions Plan 2009**

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

Standard Condition: C5

### C.3 BASIX commitments

The *applicant* must submit to the *Certifying Authority BASIX Certificate* No.<External Reference Field in Authority> 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 Stormwater discharge to existing *Stormwater Drainage System* (Clause 25(2) WLEP 1995)

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

- a) The location of the existing *Stormwater Drainage System* including all pipes, inspection openings, surface drains, pits and their discharge location,
- b) The state of repair of the existing *Stormwater Drainage System*,
- c) Any remedial works required to upgrade the existing *Stormwater Drainage System* to comply with the BCA,

- d) Any remedial works required to upgrade the existing *Stormwater Drainage System* crossing the footpath and any new kerb outlets,
- e) Any new *Stormwater Drainage System* complying with the BCA,
- f) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath,
- g) Any rainwater tank (See **Note** below) required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*, and
- h) General compliance with the Council's draft Development Control Plan Stormwater Drainage Management (Draft Version 1.1, Public Exhibition Copy dated 14/12/2006)

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

All *Stormwater Drainage System* work within any road or public place must comply with Woollahra Municipal Council's *Specification for Roadworks, Drainage and Miscellaneous Works* dated January 2003.

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

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

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

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

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

[www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

Standard Condition: C49

## C.7 General Ventilation:

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

## C.8 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

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

Standard Condition C59

### **C.9 Swimming and Spa Pools – Child Resistant Barriers**

The *Construction Certificate* plans and specifications required by Clause 139 of the *Regulation* must demonstrate compliance (by showing the proposed location of all child-resistant barriers and the resuscitation sign) with the provisions of the *Swimming Pools Act 1992*.

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

Standard Condition: C55

### **C.10 Swimming and Spa Pools – Backwash**

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the Regulation must detail the connection of backwash to Sydney Waters sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

**Note:** The plans must show the location of Sydney Waters sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

**Note:** The discharge of backwash water to any stormwater system is water pollution and an offence under the *Protection of the Environment Operations Act 1997*. The connection of any backwash pipe to any stormwater system is an offence under the *Protection of the Environment Operations Act 1997*.

Standard Condition: C56

### **C.11 Swimming Pool Fencing**

Swimming Pool Fencing is to be constructed in accordance with AS1926-2007- Australian Standard Swimming Pool Safety Part 1 – *Safety Barriers for Swimming Pools*.

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

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

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

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

This condition does not apply:

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

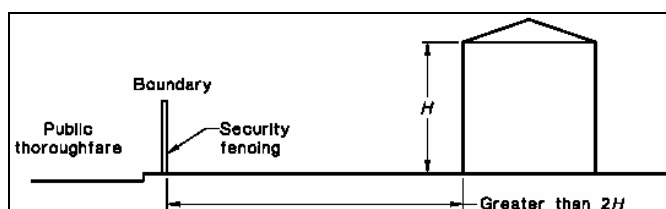
In this condition, a reference to the *BCA* is a reference to that code as in force on the date the application for the relevant construction certificate is made.

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

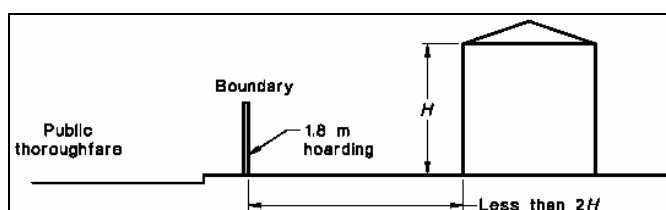
**Note:** All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.  
Standard Condition: D1

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

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



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



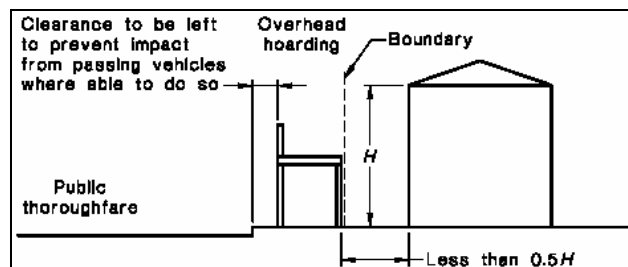
Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either:



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

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

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



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

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

<http://www.workcover.nsw.gov.au/Publications/LawAndPolicy/CodesofPractice/oheadprotstr ucts.htm>.

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

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

Standard Condition: D11

### D.3 Site Signs

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

Clause 98A of the *Regulation* provides:

***Erection of signs***

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

Clause 227A of the Regulation provides:

***Signs on development sites***

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

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

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

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

Standard Condition: D12

**D.4 Toilet Facilities**

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

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

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

In this condition:

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

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

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

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

**Note:** This condition does not set aside the requirement to comply with Workcover NSW requirements.  
Standard Condition: D13

#### **D.5 Erosion and Sediment Controls – Installation**

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

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

Where there is any conflict The Blue Book takes precedence.

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

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

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

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

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

Standard Condition: D14 (Autotext DD14)

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

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

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

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

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

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

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

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

Standard Condition: D15

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

- 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

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

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

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

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

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

Standard Condition: D18

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

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

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

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

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

Standard Condition: E2

## **E.3 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, and
- d) No piling, piercing, cutting, boring, drilling, rock breaking, rock sawing, jack hammering or bulk excavation of land or loading of material to or from trucks must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday.
- e) No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

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

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

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

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

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

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

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

### E.6 Maintenance of Vehicular and Pedestrian Safety and Access

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

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

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

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

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

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

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

- 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.

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

## E.8 Support of adjoining land and buildings

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

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



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

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

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

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

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

Standard Condition: E13

## E.9 Erosion and Sediment Controls – Maintenance

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

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

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



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

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

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

Standard Condition: E15

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

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

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

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

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

Standard Condition: E20

### **E.11 Placement and use of Skip Bins**

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

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

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

Standard Condition: E21

## E.12 Prohibition of burning

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

**Note:** Pursuant to the *Protection of the Environment Operations (Control of Burning) Regulation 2000* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.  
Standard Condition: E22

## E.13 Dust Mitigation

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

This generally requires:

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

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

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

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

Standard Condition: E23 (Autotext EE23)

## E.14 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 (Autotext EE17)

### **E.15 Disposal of soils**

The disposal of soils from the site shall have regard to the provision of both the Protection of the Environment Operations Act 1997 and Regulations thereunder and NSW DECC Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).

### **E.16 Swimming and Spa Pools – Temporary Child Resistant Barriers and other matters**

Temporary child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* where any swimming pool or spa pool as defined by the *Swimming Pools Act 1992* contains more than 300mm in depth of water at any time. Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* as soon as practical.

Backwash and any temporary dewatering from any swimming pool or spa pool as defined by the *Swimming Pools Act 1992* must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

**Note:** This condition does not prevent Council from issuing an order pursuant to section 23 of the *Swimming Pool Act 1992* or taking such further action as necessary for a breach of this condition or the *Swimming Pools Act 1992*.  
Standard Condition: E26

### **E.17 Waste minimisation and management – Demolition**

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

- the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work
- 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)
- provide separate collection bins and/or areas for the storage of residual waste
- clearly ‘signpost’ the purpose and content of the bins and/or storage areas
- implement measures to prevent damage by the elements, odour, health risks and windborne litter
- minimise site disturbance, limiting unnecessary excavation

When implementing the SWMMP the applicant must ensure:

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

**Note:** Materials that have an existing reuse or recycling market should not be disposed of in a landfill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.  
Standard Condition: E31

## **E.18 Waste minimisation and management – Construction**

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

- the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work
- arrange for the delivery of materials so that materials are delivered ‘as needed’ to prevent the degradation of materials through weathering and moisture damage
- consider organising to return excess materials to the supplier or manufacturer
- allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation)
- clearly ‘signpost’ the purpose and content of the storage areas
- 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.
- promote separate collection bins or areas for the storage of residual waste
- implement measures to prevent damage by the elements, odour and health risks, and windborne litter
- minimise site disturbance and limit unnecessary excavation
- ensure that all waste is transported to a place that can lawfully be used as a waste facility
- 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

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

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

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

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

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

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

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

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

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

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

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

Standard Condition: F7

### F.3 Swimming and Spa Pools

Prior to any occupation or use of the development and prior to filling any swimming pool as defined by the *Swimming Pool Act 1992*:

- a. The *Principal Contractor* or *owner* must apply for and obtain a Compliance Certificate under section 24 of the *Swimming Pools Act 1992*.
- b. Public Pools must comply with the NSW Health Public Swimming Pool and Spa Pool Guidelines in force at that time and private pools are encouraged to comply with the same standards as applicable.
- c. Water recirculation and filtration systems must be installed in compliance with AS 1926.3-2003: *Swimming pool safety - Water recirculation and filtration systems*.

***Backwash must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.***

- d. Water recirculation and filtration systems must be connected to the electricity supply by a timer that limits the systems operation such that it does not operate:
  - e. before 8 am or after 8 pm on any Sunday or public holiday, or
  - before 7 am or after 8 pm on any other day.

**Note:** The NSW Health Public Swimming Pool and Spa Pool Guidelines can be down loaded free from: <http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>

Standard Condition: F13

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

No condition

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

### **H.1 Fulfilment of BASIX commitments – Clause 154B of the Regulation**

All BASIX commitments must be effected in accordance with the BASIX Certificate No.<A74448>.

**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "*A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled.*"  
Standard Condition: H7

### **H.2 Removal of Ancillary Works and Structures**

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

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

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

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

### **I.1 Maintenance of BASIX commitments**

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. A74448.

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

### **I.2 Swimming and Spa Pools – Maintenance**

Swimming and Spa Pools must be maintained:

- a) In compliance with the *Swimming Pools Act* 1992 with regard to the provision of child-resistant barriers and resuscitation signs;
- b) In compliance with the NSW Health “Public Swimming Pool and Spa Pool Guidelines” in force at that time. Private pools are encouraged to comply with the same standards as applicable;
- c) In compliance with AS 1926.3-2003:Swimming pool safety - Water recirculation and filtration systems ;
- d) With backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and

- e) With a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
- Before 8 am or after 8 pm on any Sunday or public holiday, or
  - Before 7 am or after 8 pm on any other day.

**Note:** Child-resistant barriers, resuscitation signs, recirculation and filtration systems and controls systems require regular maintenance to ensure that life safety, health and amenity standards are maintained.

**Note:** The NSW Health Public Swimming Pool and Spa Pool Guidelines can be down loaded free from:

<http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>

Standard Condition: I13

### I.3 Rainwater Tank – Operation and Maintenance

All rainwater tank systems shall be operated and maintained in accordance with the technical provisions of the NSW Code of Practice for Plumbing and Drainage 3rd Edition 2006, AS/NZS 3500 as adopted by the Building Code of Australia, and the NSW Health Guideline "Use of Rainwater Tanks Where a Public Water Supply is Available".

**Note:** The NSW Health Guideline can be downloaded from

[http://www.health.nsw.gov.au/policies/gl/2007/pdf/GL2007\\_009.pdf](http://www.health.nsw.gov.au/policies/gl/2007/pdf/GL2007_009.pdf). The guideline's introduction states: "In urban areas the public water supply remains the most reliable source of good quality drinking water for the community. In these areas NSW Health supports the use of rainwater tanks for non-drinking uses, such as toilet flushing, washing clothes or in water heating systems, and outdoors for uses such as garden watering, car washing, filling swimming pools, spas and ornamental ponds, and fire fighting. Use of rainwater conserves the public water supply and helps to reduce stormwater impacts. In urban areas NSW Health recommends that people use the public water supply for drinking and cooking because it is filtered, disinfected and generally fluoridated." Standard Condition: I35

### I.4 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/nglg.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 Environment Operations Act 1997*.

#### Useful links:

**Community Justice Centres**—free mediation service provided by the NSW Government ([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).

**Department of Environment and Conservation NSW**, Noise Policy Section web page ([www.environment.nsw.gov.au/noise](http://www.environment.nsw.gov.au/noise)).

**New South Wales Government Legislation** home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).

**Australian Acoustical Society**—professional society of noise-related professionals ([www.acoustics.asn.au/index.php](http://www.acoustics.asn.au/index.php)).

**Association of Australian Acoustical Consultants**—professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).

**Department of Gaming and Racing** - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).

Standard Condition: I50 (Autotext I150)



### **I.5 Noise from mechanical plant and equipment – swimming pool plant and exhaust ventilation.**

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

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed.

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

**Note:** Words in this condition have the same meaning as in the:  
*NSW Industrial Noise Policy* ([http://www.environment.nsw.gov.au/resources/ind\\_noise.pdf](http://www.environment.nsw.gov.au/resources/ind_noise.pdf))  
ISBN 0 7313 2715 2, dated January 2000, and  
*Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>)  
ISBN 1741370671 , dated December 2004.  
Standard Condition: I53

### **J. Miscellaneous Conditions**

No condition

### **K. Advisings**

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

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

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

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

#### Warnings as to potential maximum penalties

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

#### Warning as to enforcement and legal costs

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

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

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

<http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the Attorney General's [www.agd.nsw.gov.au](http://www.agd.nsw.gov.au).  
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](http://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 appoint a *principal contractor* for residential building work who must be the holder of a contractor licence.

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

<http://www.dft.nsw.gov.au/building.html> .

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

Standard Condition: K5

## K.4 Building Standards - Guide to Standards and Tolerances

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

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

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

The Guide can be down loaded from:

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

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

Standard Condition: K6

## **K.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;
- c) The Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (1998)];
- d) The Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)] <http://www.nohsc.gov.au/> ;
- e) The Workcover NSW Guidelines for Licensed Asbestos Removal Contractors.

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

Standard Advising: K8

## **K.7 Lead Paint**

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

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

Lead 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 Appeal**

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr T Wong, Senior Assessment Officer, on (02) 9391 7158.

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.9 Release of Security**

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

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

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

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

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

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

### **K.10 Recycling of Demolition and Building Material**

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

Standard Condition: K17

### **K.11 Owner Builders**

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

Standard Condition: K18

### **K.12 Compliance with the Building Code of Australia**

Preliminary assessment of the development application drawings indicates that the proposal may not comply with the following sections of the *Building Code of Australia*:

- a) Part 3.3.4 - Weatherproofing of masonry
- b) Part 3.4.1 - Sub floor ventilation
- c) Part 3.7 - Fire safety
  - Part 3.7.1 Fire separation
  - Part 3.7.2 Smoke alarms
  - Part 3.7.3 Heating appliances
- d) Part 3.8 - Health and amenity
  - Part 3.8.1 Wet areas
  - Part 3.8.3 Facilities
  - Part 3.8.4 Light
  - Part 3.8.5 Ventilation
  - Part 3.8.6 Sound insulation

- e) Part 3.9 - Safe movement and access
- Part 3.9.1 Stair construction
  - Part 3.9.2 Balustrades
  - Part 3.9.3 Pool access

**Note:** There must be no removal of heritage building fabric unless expressly authorised under this consent where compliance with the BCA cannot be achieved without work not authorised under this consent application to amend this consent is required.

Standard Condition: K20

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

***For the Motion***

Councillor Boskovitz  
Councillor Cavanagh  
Councillor Medcraft  
Councillor Shapiro  
Councillor Zeltzer  
Councillor Jarnason  
Councillor Carmichael  
Councillor Grieve  
Councillor Petrie

***Against the Motion***

Councillor Wynne  
Councillor Young  
Councillor Shoebridge

***9/3***

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**Item No:** R4 Recommendation to Council

**Subject:** **114 Wolseley Road, Point Piper – Demolition of existing dwelling & construction of new dwelling – 30/7/2009**

**Author:** Dimitri Lukas – Senior Assessment Officer

**File No:** DA385/2009

**Reason for Report:** In accordance with Council's meeting procedures and policy this matter is called to full Council by Councillor Howe for the following reasons:  
Late correspondence from an objector in raising a number of detailed planning and legal matters and want's Council to have the ability to have our legal council comment on those and appropriately go the full Council.

**Note:** Late correspondence was tabled by Council's Manager Development Control, Patrick Robinson.

**(Shapiro/Grieve)**

**15/15 Resolved:**

That the matter be referred back to the Development Control Committee for determination.

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## Community & Environment Committee

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### Items with Recommendations from the Committee Meeting of Monday 9 August 2010 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** Community and Cultural / Environmental Grants 2010 /2011  
**Author:** Romi Scodellaro, Melissa Sellen  
**File No:** 30.G, 2010, 1142.G/Education  
**Reason for Report:** To give consideration to applications for Section 356 Community and Cultural Grants and Community Environmental Grants from local community groups /services /schools.

**Motion moved by Councillor Grieve  
Seconded by Councillor Jarnason**

That the staff recommendation submitted to the Community and Environment Committee on 9 August 2010 be adopted.

**Amendment moved by Councillor Boskovitz  
Seconded by Councillor Wynne**

That the recommendation on the agenda from the Community and Environment Committee be adopted.

**The Amendment was put and lost  
The Motion was put and adopted**

(Grieve/Jarnason)

**16/15 Resolved:**

- A. That Council approve the selection panel's recommendations for the successful 2010/11 Community and Cultural Large Grants and the first round of the Small Grants Program.
- B. That Council approve the selection panel's recommendations for successful 2010/11 Community Environmental Grants.
- C. That a function be organised to present and celebrate the awarding of the Community and Cultural Grants and Community Environmental Grants to successful organisations.



**Note:** A Division was called by Councillors Boskovitz and Grieve

***For the Motion***

Councillor Cavanagh  
Councillor Medcraft  
Councillor Zeltzer  
Councillor Jarnason  
Councillor Shoebridge  
Councillor Grieve  
Councillor Young

***Against the Motion***

Councillor Boskovitz  
Councillor Wynne  
Councillor Plater  
Councillor Carmichael  
Councillor Shapiro  
Councillor Petrie

**7/6**

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## Strategic & Corporate Committee

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### Items with Recommendations from the Committee Meeting of Monday 9 August 2010 Submitted to the Council for Determination

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- Item No:** R1 Recommendation to Council
- Subject:** **Draft Woollahra local environmental plan 1995 (Amendment no 67)—  
Kiaora Lands**
- Author:** Allan Coker - Director Planning and Development
- File No:** 1064.G
- Reason for Report:** The purpose of the report is to—
- Consider the submissions received during the exhibition of the Draft LEP,
  - Obtain Council's approval to proceed with the Draft LEP, with an amendment,
  - Propose changes to the version of the Draft Double Bay Centre Development Control Plan (Amendment No. 3) that was reported to the Urban Planning Committee on 30 November 2009 but not endorsed, and
  - Seek Council's approval to exhibit the revised Draft DCP.
- Note:** Late correspondence was tabled by Anthony Tregoning, Robin Edwards, Michael Rolfe of Sydney Harbour Association, Roger Massy-Greene, Philip Mason of Double Bay Residents' Assoc, Makiko Sano & Tony Moody.
- Note:** A report was tabled at the meeting from Council's Director Planning and Development, Allan Coker in accordance with Part F of the Strategic and Corporate Committees recommendation.

**Motion moved by Councillor Shapiro  
Seconded by Councillor Cavanagh**

That the recommendation in the report tabled at the meeting from Council's Director Planning and Development be adopted subject to:

1. the FSR for the south part of the Kiaora lands site being 1.1:1,
2. the maximum height limit for the south part of the site being 13m,
3. the DCP to include controls providing for the minimum solar access to adjoining properties consistent with the Woollahra Residential DCP and a minimum 2.5m setback to the northern side boundary of 8 Kiaora Road.

**Amendment moved by Councillor Boskovitz  
Seconded by Councillor Petrie**

That the recommendation in the report tabled at the meeting from Council's Director Planning and Development, Allan Coker be adopted subject to:

1. the FSR for the south part of the Kiaora lands site being 1.5:1,

2. the DCP to include controls providing for the minimum solar access to adjoining properties consistent with the Woollahra Residential DCP and a minimum 2.5m setback to the northern side boundary of Kiaora Road.

**The Amendment was put and lost**

**The Motion was put and adopted**

**(Shapiro/Cavanagh)**

**17/15 Resolved:**

- A. That the Council resolve to request the Minister for Planning to allow the Council to prepare a planning proposal for the Kiaora Lands site that is consistent with the aims of Draft Woollahra LEP 1995 (Amendment No. 67) which was publicly exhibited and which takes into account changes arising from the public exhibition so as to generally provide for:
  - a. a rezoning of lands to the Business General 3(a) zone
  - b. a maximum height limit of 16.5m for the New South Head Road part of the site and maximum height limit of 13m for the south part of the site
  - c. a maximum floor space ratio of 3.0:1 for the New South Head Road part of the Kiaora Lands site, a 2.5:1 FSR for the Sheaf Hotel site and a FSR of 1.1:1 for the south part of the Kiaora lands site.
- B. That Draft Double Bay Centre Development Control Plan (Amendment No. 3), provided in **Annexure 2 Part B** to the report to the Strategic and Corporate Committee on 11 August 2010, as amended to make it consistent with the planning proposal referred to in item A above, be publicly exhibited in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000* and concurrently with the planning proposal subject to the DCP including controls providing for the minimum solar access to adjoining properties consistent with the Woollahra Residential DCP and a minimum 2.5m setback to the northern side boundary of 8 Kiaora Road.
- C. That a report be prepared for the Community and Environment Committee to consider parking management solutions for parking during the construction period of any future redevelopment of the Kiaora Lands.
- D. That assessment of a development application not be finalised until after Council considers the submissions to the Draft Development Control Plan (DCP), and approves a DCP for the Kiaora Lands site.
- E. That, in response to public submissions, Woolworths be advised that a comprehensive development application lodged in respect of the Kiaora Lands site must include the following documentation:
  - A traffic study and traffic management plan that includes traffic modelling of both a.m. and p.m. peak periods.
  - An economic impact study that examines the economic impact of the proposed development on the Double Bay commercial centre.
  - An arborist's report that demonstrates how the trees identified in the 'Street Trees' section of the Double Bay Centre Development Control Plan, Appendix 2 – Kiaora Lands 2010, will be retained.

- A flood study prepared by a suitably qualified hydraulic engineer that addresses, among other things, how property on and off the site (including the public domain) will be protected during a 1 in 100 years flood event.
- A building sustainability design report which explains how the building will achieve best practice sustainability.

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

***For the Motion***

***Against the Motion***

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

Nil

***13/0***

## Notice of Motion

**Item No:** 1  
**From:** Councillors Boskovitz and Carmichael  
**Date:** 5 August 2010  
**File No:** 900.G

**(Boskovitz/Carmichael)**

**18/15** That a report be brought to Council outlining the changes that must be made to our various planning instruments to ensure that all parking spots in new single dwellings and residential flat buildings have direct access to facilities that allow electric cars to be recharged.

The Council should investigate the possibility of providing individual recharging facilities to all parking spots in new residential flat buildings to make certain that all residents have access to these facilities at any occasion that their vehicle is parked in their parking spot.

**Adopted**

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**Item No:** 2  
**From:** Councillors Shoebridge, Jarnason and Grieve  
**Date:** 9 August 2010  
**File No:** 900.G

**Note:** Councillors Shoebridge, Jarnason and Grieve withdrew the Notice of Motion.

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**Item No:** 3  
**From:** Councillors Shoebridge and Young  
**Date:** 13 August 2010  
**File No:** 900.G

**(Shoebridge/Young)**

**19/15** That for all future tenders for:

- (i) Garbage trucks; and/or
- (ii) Mechanical street cleaners,

that reduced acoustic impact be a part of the tender assessment criteria.

**Adopted**

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**Item No:** 4  
**From:** Councillors Shoebridge and Young  
**Date:** 13 August 2010  
**File No:** 900.G

**(Shoebridge/Young)**

**20/15** That a report be brought to the Community and Environment Committee on options for regular cleaning the gutters on Queen Street including:

- (i) existing programme;
- (ii) possible weekly mechanical cleaning aided by having a short no parking provision to assist with access for mechanical cleaners; and
- (iii) increased manual cleaning of the gutters.

**Adopted**

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**Item No:** 5  
**From:** Councillors Boskovitz & Wynne  
**Date:** 18 August 2010  
**File No:** 900.G

**(Boskovitz/Wynne)**

**21/15** That the Mayor write to Sydney Ferries, the Premier and all relevant Ministers urgently requesting that they amend all current and future ferry timetables to incorporate permanent peak hour services to and from Watsons Bay on Monday to Friday.

**Adopted**

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**Item No:** 6  
**From:** Councillor Boskovitz  
**Date:** 18 August 2010  
**File No:** 900.G

**(Boskovitz/Cavanagh)**

- 22/15** 1) A report be brought to the relevant committee investigating the ability of Council to work with National Parks and Wildlife to develop the parking area across the Road from Doyles at Watsons Bay into a more significant parking area so that it can service
- a) tourists;
  - b) users of the new Watsons Bay Baths Precinct as well as Camp Cove; and
  - c) Ferry commuters when the current State Government, any future State Government or any private operator decides to provide permanent peak hour ferry services to and from Watsons Bay on Monday to Friday.
- 2) That preliminary investigations be undertaken in conjunction with National Parks and Wildlife as to methods to fund such a project including State Government funding, State Government grants, grants from Tourism NSW and Public Private Partnerships.

**Adopted**

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**Item No:** 7  
**From:** Councillors Howe, Cavanagh, Shapiro & Zeltzer  
**Date:** 23 August 2010  
**File No:** 900.G

**(Zeltzer/Cavanagh)**

- 23/15** That a briefing report be provided to the Urban Planning Committee outlining Council's strategy for reviewing its Heritage Items included in the Council's LEP, the report to include;
- a. The methodology used to evaluate items on the current list,
  - b. The methodology and mechanisms to identify new items,
  - c. The current priorities and scheduling to review items on the list including trees
  - d. Indicative costings to undertake reviews
  - e. Any other matters considered relevant by staff

**Adopted**

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## Questions for Next Meeting

**Item No:** 13  
**Subject:** Questions for Next Meeting  
**Author:** Gary James, General Manager  
**File No:** 467.G/Q 10  
**Reason for Report:** To allow Councillors to ask Questions for Next Meeting in accordance with Council's Code of Meeting Practice.

**(Boskovitz/Cavanagh)**

**24/15** That Councillors ask Questions for Next Meeting in accordance with Council's Code of Meeting Practice and the responses to previous Questions for Next Meeting be noted

**Adopted**

**The following questions were asked:-**

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**Councillor Boskovitz asking:**

Are there any further updates as to the circumstances I raised regarding Hopetoun Avenue light poles at the last meeting?

**Mayor in response:**

Yes, Mr Harris saw me on Saturday night and you and I are meeting him soon with staff.

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**Councillor Boskovitz asking:**

Could a briefing session be organised for Monday 6 September 2010 at 5.00pm to go over the commercial arrangement proposed by Woolworths for the Kiaora Lands development?

Could relevant people from CBRE please be invited to attend?

**General Manager in response:**

Yes we will arrange the briefing. I am just not sure about that date, we will need to double check dates and make sure there is no clash.



**Councillor Carmichael asking:**

As I raised earlier at the Mayoral Minute, given the deletion of the Woollahra Railway Station and the Edgecliff Centre from the potential Woollahra opportunity sites, can you write to the relevant Minister requesting a reduction in dwelling numbers commensurate with the equivalent numbers set aside for the lost opportunity sites that the State Government will not accommodate?

**Mayor in response:**

On notice.

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There being no further business the meeting concluded at 11.00pm.

*We certify that the pages numbered 2005 to 2061 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 23 August 2010 and confirmed by Council at the ordinary Meeting of Council on 6 September 2010 as correct.*

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**General Manager**

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**Mayor**