



# Ordinary Council Meeting

**Agenda:** *Ordinary Council Meeting*

**Date:** *Monday 27 June 2011*

**Time:** *8.00pm*

# Woollahra Municipal Council

## Notice of Meeting

23 June 2011

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

Dear Councillors

### **Council Meeting – 27 June 2011**

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Ordinary Council Meeting** to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Monday 27 June 2011 at 8.00pm.**

Gary James  
General Manager

## Meeting Agenda

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## Leave of Absence

**Item No:** 1  
**From:** Councillor Nicola Grieve  
**Reason for Report:** Seeking leave of absence for all meetings of the Council and its Committees from Monday 27 June to Saturday 16 July, 2011 inclusive.

**Recommendation:**

That leave of absence for all meetings of the Council and its Committees be granted to Councillor Nicola Grieve for the period Monday 27 June to Saturday 16 July, 2011 inclusive.

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## Mayoral Minute

**Mayoral Minute No:** 1

**Subject:** Queen's Birthday Honours 2011

**Author:** Cr Isabelle Shapiro, Mayor

**File No:** 13.G/6

**Reason for Report:** To inform the Council of the local recipients of the Queen's Birthday Honours.

### Recommendation:

That letters of congratulations, signed by the Mayor, be forwarded to the following recipients of the 2011 Queen's Birthday Honours:

- i. Mr Jonathan Edward Mills, AO
- ii. Mr Nicholas Anthony Curtis, AM
- iii. Professor Kerry Lyndel Phelps, AM
- iv. Professor Perminder Singh Sachdev, AM
- v. Mr Shane David Simpson, AM
- vi. Ms Susanne Julia Gervay, OAM
- vii. Mr Gregory John McLean, OAM

I am pleased to inform the Council that seven (7) residents of Woollahra were among those persons honoured in the recent Queen's Birthday Honours. They are:

### Officer (AO) in the General Division

- i. *Mr Jonathan Edward Mills, AO*  
For distinguished service to the performing arts as a composer and director of international festivals, through the promotion of cultural exchange, and to public debate.

### Member (AM) in the General Division

- ii. *Mr Nicholas Anthony Curtis, AM*  
For service to the community through executive roles supporting medical research and health care organisations, and to Australia-China business relations.
- iii. *Professor Kerry Lyndel Phelps, AM*  
For service to medicine, particularly through leadership roles with the Australian Medical Association, to education and community health, and as a general practitioner.
- iv. *Professor Perminder Singh Sachdev, AM*  
For service to medical research in the field of neuropsychiatry, as a clinician and academic, and to professional associations at a national and international level.
- v. *Mr Shane David Simpson, AM*  
For service to the law and to the arts through leading roles in intellectual property and entertainment law, and as a contributor to a range of cultural organisations.

**Medal (OAM) in the General Division**

- vi. *Ms Susanne Julia Gervay, OAM*  
For service to children's literature, and to professional organisations.
  
- vii. *Mr Gregory John McLean, OAM*  
For service to industrial relations.



C/ Isabelle Shapiro  
Mayor

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**Annexures:**

nil

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## 9.1 Corporate & Works Committee

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### Items with Recommendations from the Committee Meeting of Monday 20 June 2011 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** **Draft Investment Policy**  
**Author:** Don Johnston, Manager Finance  
**File No:** 349.G  
**Reason for Report:** To seek a recommendation to Council to adopt an updated Investment Policy which has been reviewed in line with the Investment Policy Guidelines and the Ministerial Investment Order

**Recommendation:**

That:

- A. The Draft Investment Policy prepared in accordance with the Division of Local Government Guidelines and appearing as Annexure 1 to this report be adopted as Council's Investment Policy.
- B. It be noted that the Draft Policy includes reference to Council's existing resolution to restrict all direct investments to Approved Deposit Taking Institutions whose deposits are covered by Australian Commonwealth Government Guarantee.
- C. It be noted that the Policy will be reviewed should the Government Guarantee be removed or altered.

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**Item No:** R2 Recommendation to Council  
**Subject:** **Reconstruction of Yarranabbe Road, Darling Point**  
**Author:** Sam Badalati – Project Manager  
**File No:** Tender No 11/05  
**Reason for Report:** To recommend to Council the acceptance of a Tender

**Recommendation:**

- A. That Council enters into a Contract with Ozpave (Aus) Pty Ltd for the lump sum of \$218,547.36 excluding GST for reconstruction work in Yarranabbe Road from Thornton Street to 83 Yarranabbe Road, Darling Point.
  - B. That successful and unsuccessful tenderers be advised accordingly.
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**Item No:** R3 Recommendation to Council  
**Subject:** **Reconstruction of Tarrant Avenue & Kulgoa Lane, Bellevue Hill**  
**Author:** Sam Badalati – Project Manager  
**File No:** Tender No 11/07  
**Reason for Report:** To recommend to Council the acceptance of a Tender

**Recommendation:**

- A. That Council enter into a Contract with Melhemcorp Pty Ltd for the lump sum of \$142,691 excluding GST, plus any provisional rates used for reconstruction work in Tarrant Avenue and Kulgoa Lane, Bellevue Hill.
  - B. That successful and unsuccessful tenderers be advised accordingly.
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**Item No:** R4 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 seek instruction from Council regarding disputed easement compensation valuation by adjoining owner of 23 Victoria St, Watsons Bay.

**Recommendation:**

- A. That Council endorse the staff recommendation for Easement compensation of \$53,400 (plus GST) payable by the adjoining owner of 23 Victoria St, pursuant to the valuation undertaken by independent registered valuer Corporeal Pty Ltd to formalise an encroachment and grant of an Easement to permit encroaching structure to remain.
  - B. That if there is no agreement reached in regard to the easement compensation amount, then the owner of 23 Victoria St must remove the encroaching structures upon Council road reserve at Victoria St, Watsons Bay at their cost.
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## 9.2 Development Control Committee

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### Items with Recommendations from the Committee Meeting of Monday 20 June 2011 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council

**Subject:** **65 Ocean Street, Woollahra – Alterations & additions to an existing restaurant including new kitchen, services & facilities & landscaping – 28/3/2011**

**Author:** Sarah Chambers – Senior Assessment Officer

**File No:** DA111/2011

**Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to the site being owned by Woollahra Council.

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

THAT the Council, as the consent authority, grant development consent to Development Application No. 111/2011 for alterations and additions to an existing restaurant including new kitchen, services and facilities and landscaping on land at 65 Ocean Street, Woollahra, (Chiswick Gardens) 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

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**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, piling, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an *occupation certificate*.

**Note: Interpretation of Conditions** - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.  
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)
DA 000, (rev 8), DA 030, DA 040, DA 100, DA 101, DA 300, DA 301, DA 400, DA 401, DA 402 (rev 9) and DA 700 (rev 2)	Plans, Elevations and Sections	Humphrey and Edwards Architects and Interior Designers	24/3/2011
DA-1102-01 Rev A	Landscape Plan	Sturt Associates	24 Mar 2011
Ref:11008	Traffic and Parking report	John Coady Consulting P/L	16 Mar 2011
Dwg No SC01 Rev. D	Stormwater Management Plan	Neil Lowry & Assoc P/L	04.03.11

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

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

Standard Condition: A5

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

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

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

Standard Condition: A8

### A.5 Use of Chiswick Gardens

Use of Chiswick Gardens for restaurant activities is not permitted unless prior Council approval is granted. The operators must consider the communities general and uninterrupted use of the park.

Chiswick Gardens serve the open space needs of residents in a high-density area and are also used as a site for weddings and social functions.

## **A.6 Access through Public Open Space**

Vehicular Access to the restaurant building from the adjoining Chiswick Gardens will not be permitted unless prior written approval has been obtained by Council's Open Space and Trees Department. All deliveries to the restaurant should be made from the surrounding streets.

## **A.7 Development Consent is not granted in relation to these matters**

This approval does not give consent to any live music or dance floor. A separate Development Consent or Complying Development Certificate and Part 4A Certificates, as appropriate, will need to be obtained prior to the such development work commencing.

Standard Condition: A9

## **A.8 Additional mechanical plant and associated equipment that has yet to be specified**

For additional mechanical plant and associated equipment that has yet to be specified due to design requirements for the subject property, such equipment must be selected at the detailed design stage once the size and capacity of all plant and associated equipment has been determined. Regardless of the acoustic treatment, all proposed mechanical plant and associated equipment will require to comply with Council's Noise Criterion for Mechanical Plant and Equipment as follows:

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 (Autotext II53)

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

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

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

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

## B.2 Establishment of Tree Protection Zones

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

- a) Tree Protection Zone areas

Council Ref No	Species	Location	Radius from Trunk (Metres)*
11	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry – West	3m
12	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry – Centre	3m
13	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry - East	3m
14	<i>Livistonia australis</i> (Cabbage Tree palm)	South west corner – Standing in Chiswick Garden	2m

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

Council Ref No	Species	Location
11	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry – West
12	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry – Centre
13	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry – East
14	<i>Livistonia australis</i> (Cabbage Tree palm)	South west corner – Standing in Chiswick Garden

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

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

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

Standard Condition: B5

### B.3 Permissible work within Tree Protection Zones

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

a) Permissible Work within Tree Protection Zones

Council Ref No:	Species	Location	Radius from Trunk (metres)	Approved works within incursion
11	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry – West	3m	Construction of north wall of new dining area- Removal of pavers
12	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry – Centre	3m	Construction of north wall of new dining area- Removal of pavers
13	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry - East	3m	Construction of north wall of new dining area- Removal of pavers
14	<i>Livistonia australis</i> (Cabbage Tree palm)	South west corner – Standing in Chiswick Garden	3m	Construct new timber fence

- b) Where excavation is undertaken within a specified Tree Protection Zone, the edge of the excavation must be stabilised, until such time as permanent measures are installed (eg. retaining wall etc) to prevent erosion within the Tree Protection Zone.
- c) To prevent damage to roots and compaction within the Tree Protection Zone of specified trees, excavation must be hand dug. Small hand tools only are to be utilised, mattocks and similar digging tools are not be used within these areas. No root with a diameter equal to or in excess of 50mm is to be cut unless approved, in writing, by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 4 or recognised equivalent).

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

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

### B.4 Recording of significant or contributory buildings prior to any demolition

A full archival record of the building and landscape elements to be demolished is to be submitted, to the satisfaction of Council’s heritage officer, prior to the commencement of any work and prior to the issue of a Construction Certificate.

The archival record is to be completed by a heritage consultant listed on the Consultants Directory by the NSW Department of Planning Heritage Branch or by a suitably qualified consultant who must demonstrate a working knowledge of archival principles.

Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series, Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the NSW Department of Planning Heritage Branch.

There should be three sets of the photographic report and film materials or digital materials. The following table summarises the lodgment details for photographic records, depending on which material is selected. It is satisfactory to supply one material only and digital material is recommended.

<b>Material</b>	<b>Minimum Requirement</b>	<b>Repository</b>
Digital Materials	3 copies of photographic report – paper copy 3 CD-Rs or DVD 1 set of 10.5x14.8cm prints	<u>Woollahra Council</u> Report (paper) + CD-R or DVD + prints <u>Local History Centre</u> Report (paper) + CD-R or DVD <u>Owner/client</u> Report (paper) + CD-R or DVD
Black & White Film (plus any supplementary colour film)	3 copies of photographic report 1 set of negatives 1 sets of proof sheets and catalogue	<u>Woollahra Council</u> Report + negatives + 1st set of proof sheets <u>Local History Centre</u> Report + 2nd set of proof sheets <u>Owner/client</u> Report + 3rd set of proof sheets
Colour Transparencies or Slides	3 copies of photographic report 1 set of original transparencies and two sets of duplicates OR 3 sets of original images taken concurrently	<u>Woollahra Council</u> Report + original transparencies <u>Local History Centre</u> Report + duplicate/concurrent transparencies: <u>Owner/client</u> Report + duplicate/concurrent transparencies

**Note:** Refer to the NSW Department of Planning Heritage Branch website, [www.heritage.nsw.gov.au/docs/info\\_photographicrecording2006.pdf](http://www.heritage.nsw.gov.au/docs/info_photographicrecording2006.pdf)  
Standard Condition: B3

## **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) A finishes board for the scheme, including details of the acoustic screen, are to be submitted to council and approved by Council's heritage officer prior to Construction Certificate, in accordance with Woollahra HCA DCP Part 3.2.2 Original materials, finishes and colours, Objective O2 and Control C4.
- b) Existing intrusive services equipment are to be removed from the elevations of the original stables building in accordance with Part 3.2.1 Conservation of significant items or group significant items Objective O1 and Control C3.
- c) The existing timber shingles (including those on the dormer window cheeks) are to be retained in situ with replacement occurring only in areas of damage in accordance with Woollahra HCA DCP Part 3.2.2 Original materials, finishes and colours Objective O1 and Control C1; and Part 3.2.4 Traditional building elements Objective O1 and Controls C1 and C2.
- d) Any new gutters and downpipes are to be of traditional profiles and materials in accordance with Woollahra HCA DCP Part 3.2.4 Traditional building elements Objective O2, Control C2.

- e) On completion of the works, an interpretative plaque should be affixed to the building documenting its significance and history. The design of the plaque is to be approved by council's heritage officer prior to Construction Certificate.
- f) Repair work proposed to the windows on the north and south elevations are to retain the diamond-pane glass and lead work.
- g) The acoustic screen to the southern side of the condenser platform is to extend 1 metre past the end of the unit to the west and connect to the building in the north. The screen is to be constructed of solid material (single layer of 9 mm fibre cement sheeting or other suitable solid material) having a minimum acoustic performance of Rw 30 with acoustic absorption to the internal face of the screen as recommended in the report prepared by Renzo Tonin & Associates titled 'Chiswick Gardens, Woollahra: DA Acoustic Assessment Report TE176-01F03 (REV 0) dated 24 March, 2011.
- h) The existing Camphor Laurel tree shall be replaced with an alternative species, satisfactory to Council, which will achieve a mature height of at least 10 metres and spread of at least 6 metres. This tree is to be planted at the south end of the vegetable garden. The alternate species is to be located in the same location as the camphor laurel.
- i) The proposed gates to Chiswick Lane are to open inwards and not outwards onto Chiswick Lane.
- j) If a security alarm or CCTV is to be installed it is to be located in an unobtrusive location and should be the least obtrusive method of security.

**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	\$36,116	No	T115
<b>Tree Damage Security Deposit</b> – making good any damage caused to any public tree	\$21,694	No	T114
<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)	\$17,058 + Index Amount	Yes, quarterly	T96



<b>INSPECTION FEES</b> under Section 608 of the Local Government Act 1993			
Public Tree Management Inspection Fee	\$166	No	T45
Security Administration Fee	\$180	No	T16
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	\$75,214 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 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 Soil and Water Management Plan – Submission & Approval

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

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

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

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

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

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

**Note:** Pursuant to clause 161(1)(a)(5) of the *Regulation an Accredited Certifier* may satisfied as to this matter.  
Standard Condition: C25

### C.4 Building upgrade (Clause 94 of the Regulation)

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

The *Construction Certificate* plans and specification required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation* must detail building upgrade works required by this condition.

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

- a) That the existing fire safety measures installed within the building shall be extended to the new portions of the building;
- b) That toilet facilities shall be provided to the one hundred and fifty (150) patrons in accordance with the requirements of table F2.3 of the Building Code of Australia;

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

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

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

Standard Condition: C10

## C.5 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 management plan (Clause 25(2) WLEP 1995)

The *Construction Certificate* plans and specifications, required by clause 139 of the *Regulation*, must include a *Stormwater Management Plan* for the site.

The *Stormwater Management Plan* must detail:

- a) general design in accordance with Stormwater disposal concept plan prepared by Neil Lowry & Assoc P/L Dwg No SC01 Rev. D dated 04.03.11 other than amended by this and other conditions;
- b) the discharge of stormwater, by direct connection, via outlets to Chiswick Lane;
- c) compliance the objectives and performance requirements of the *BCA*;
- d) any rainwater tank required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*, and
- e) general compliance with the Council's draft Development Control Plan Stormwater Drainage Management (draft version 1.1, public exhibition copy dated 14/12/2006)

The *Stormwater Management Plan* must include the following specific requirements:

### Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Institute of Engineers Australia publication, *Australian Rainfall and Run-off*, 1987 edition or most current version thereof.

It must include:

- All pipe layouts, dimensions, grades, lengths and material specification,
- All invert levels reduced to Australian Height Datum (AHD),
- Location and dimensions of all drainage pits,
- Point and method of connection to Councils drainage infrastructure.

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

Subsoil Drainage - Subsoil drainage details, clean out points, discharge point.

**Note:** This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

Standard Condition: C51

## C.7 Light and 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 (Autotext CC59)

## C.8 Food premises construction certificate plans and specifications

The person with the benefit of this consent must submit to Council details for the construction and fit out of food premises. Such details must demonstrate compliance with the *Food Act 2003*, *Food Regulation 2004*; the *Food Standards Code* as published by Food Standards Australia and New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises*.

No *Construction Certificate* relating to the construction or fitout of food premises must be issued until Council's Environmental Health Officers' have advised in writing that the plans and specification are considered satisfactory.

The details for the construction and fit out of food premises, as considered satisfactory by Council's Environmental Health Officers' must form part of any *Construction Certificate*.

**Note:** The assessment of food premises fitout plans and specifications is subject to an adopted fee. The construction and fitout of food premises is not listed under clause 161 of the *Environmental Planning & Assessment Regulation 2000* as a matter that a *Certifying Authority* may be satisfied as to. Hence, the detailed plans & specifications must be referred to Council and be to Council's satisfaction prior to the issue of any *Construction Certificate* for such works.

Standard Condition: C65 (Autotext CC65)

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

**D.1 No works on Council roads prior to approval granted under s.138 of the Roads Act 1993**

No works on Council roads may commence until an application has been made and approval granted under s.138 of the Roads Act 1993.

**D.2 No occupation of Council property may occur prior to an appropriate legal agreement with Council**

No occupation of Council property may occur until an appropriate legal agreement has been entered into with Council

**D.3 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.4 Site Signs

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

Clause 98A of the Regulation provides:

### *Erection of signs*

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

Clause 227A of the Regulation provides:

### *Signs on development sites*

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

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

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

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

Standard Condition: D12

## D.5 Toilet Facilities

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

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

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

In this condition:

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

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

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

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

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

## D.6 Erosion and Sediment Controls – Installation

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

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

Where there is any conflict The Blue Book takes precedence.

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

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

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

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

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

Standard Condition: D14

## D.7 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)

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

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

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

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

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

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

## D.9 Erosion and sediment controls - installation

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

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

Where there is any conflict The Blue Book takes precedence.

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

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

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

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

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

Standard Condition: D14 (Autotext DD14)

## 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 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.4 Hours of Work –Amenity of the neighbourhood

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

- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday
- g) No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

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

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

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

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

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

**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.5 Public Footpaths – Safety, Access and Maintenance** (Apply to all development)

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

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

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

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

- Note:** Section 73 of the *Road Transport (Safety and Traffic Management) Act 1999* allows the Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose. Any road closure requires Police approval.
- Note:** Section 138 of the *Roads Act 1993* provides that a person must not:
- erect a structure or carry out a work in, on or over a public road, or
  - dig up or disturb the surface of a public road, or
  - remove or interfere with a structure, work or tree on a public road, or
  - pump water into a public road from any land adjoining the road, or
  - connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.
- Note:** Section 68 of the *Local Government Act 1993* provides that a person may carry out certain activities only with the prior approval of the council including:
- Part C Management of Waste:
    - a. For fee or reward, transport waste over or under a public place
    - b. Place waste in a public place
    - c. Place a waste storage container in a public place.”
  - Part E Public roads:
    - a. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
    - b. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.”
    - c. Any work in, on or over the Road or Footway requires *Council Approval* and in the case of classified roads the NSW Roads and Traffic Authority. Road includes that portion of the road uses as a footway.  
Standard Condition: E7

## E.6 Tree Preservation

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

### General Protection Requirements:

- a) There must be no excavation or *work* within the required Tree Protection Zone(s). The Tree Protection Zone(s) must be maintained during all *development work*.
- b) Where excavation encounters tree roots with a diameter exceeding 50mm excavation must cease. The *principal contractor* must procure an inspection of the tree roots exposed by a qualified arborist. Excavation must only recommence with the implementation of the recommendations of the qualified arborist or where specific instructions are given by Council's Tree Management Officer in strict accordance with such Council instructions.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the qualified arborist or where specific instructions are given by Council's Tree Management Officer in strict accordance with such Council instructions.

**Note:** Trees must be pruned in accordance with *Australian Standard AS 4373 “Pruning of Amenity Trees”* and *WorkCover NSW Code of Practice Amenity Tree Industry*.  
Standard Condition: E8

## E.7 Tree Preservation & Approved Landscaping Works

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

a) The following trees must be retained

- Trees on Council Land

Council Ref No	Species	Location	Dimension (metres)	Tree Value
11	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry – West	12 x 8	\$9,645
12	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry – Centre	14 x 8	\$7,105
13	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry - East	10 x 8	\$4,942

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

b) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
1	<i>Jacaranda mimosifolia</i> (Jacaranda)	North – adjacent to entry	8 x 10
2	<i>Jacaranda mimosifolia</i> (Jacaranda)	North – Outdoor dining area	3 x 2
3 to 9	7 x <i>Cupressus torulosa</i> (Bhutan Cypress)	Courtyard – North - adjacent to entry	Ave. 12 x 3
10	<i>Cinnamomum camphora</i> (Camphor Laurel)	South west corner - Garden	12 x 12

**Note:** The tree/s that may be removed should appear coloured red on the construction certificate plans.

### Replacement trees which must be planted

The existing Camphor Laurel tree shall be replaced with an alternative species, satisfactory to Council, which will achieve a mature height of at least 10 metres and spread of at least 6 metres. This tree is to be planted at the south end of the vegetable garden to replace the existing Camphor Laurel. The container size at the time of planting is to be 400 litres.

The above compensatory replacement plantings must be planted to ensure the preservation of the landscape character of the area. Areas for future planting must be plotted on the submitted landscape or architectural plans and be protected from damage, especially soil compaction and contamination from construction activity by erecting a barrier or implementing ground protection. Where ground protection during construction activity is not implemented, remediation measures prior to planting such as soil ripping or subsoil aeration must be employed.

Any replacement plant is to be maintained in a healthy and vigorous condition until it attains a height of 5 metres or a spread of 3 metres, whereby it will be protected by Council's Tree Preservation Order. If the replacement plant is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

### E.8 Level changes in the vicinity of trees

No level changes are to occur within the specified radius from the trunks of the following trees to allow for the preservation of their root zones.

Council Ref No:	Species	Location	Radius from Trunk (metres)
11	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry – West	3m
12	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry – Centre	3m
13	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry - East	3m

### E.9 Hand excavation within tree root zones

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

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

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

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

Council Ref No:	Species	Location	Radius from Trunk (metres)
11	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry – West	3m
12	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry – Centre	3m
13	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry - East	3m

### E.10 Footings in the vicinity of trees

Footings for any structure constructed within the specified radius from the trunks of the following trees, is to be constructed using an isolated pier and beam construction method. Excavations for installation of piers is to be located so that no tree root with a diameter equal to or in excess of 50mm is to be severed. The smallest possible area is to be excavated which allows construction of the pier. The beam is to be placed a minimum of 300mm above ground level and is to be designed to bridge all tree roots with a diameter equal to or in excess of 50mm.

Council Ref No:	Species	Location	Radius from centre of trunk (metres)
11	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry – West	3m
12	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry – Centre	3m
13	<i>Lophostemon confertus</i> (Brush Box)	Restaurant entry - East	3m

### E.11 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.12 Support of adjoining land and buildings

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

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

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

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

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

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

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

Standard Condition: E13

### E.13 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.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

### E.15 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 position 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.16 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.17 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 in bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

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

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

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

Standard Condition: E23

### **E.18 Storage of building material in Public Open Space**

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

## **E.19 Protection of Parkland**

Works must not impact on the open space adjacent to the leased area being Chiswick Gardens. No vehicle access will be permitted unless authorised by Council's Open Space and Trees Department.

## **E.20 Food premises – construction and fitout**

The *principal contractor* or *owner builder* must ensure that all construction and fitout of the food premises complies with the details for the food premises submitted to and considered satisfactory by Council's Environmental Health Officers but no less compliant than with the *Food Act 2003*, *Food Regulation 2004*; the *Food Standards Code* as published by Food Standards Australia and New Zealand and AS 4674-2004: *Construction and fit out of food premises*.

This condition has been imposed to protect public health and ensure that food premises are easily maintained in a clean condition fit for food preparation and consumption.

Standard Condition: E29 (Autotext EE29)

## **E.21 Plaques within Chiswick Gardens**

Any plaques within Chiswick Gardens are to be retained in situ and protected during works.

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

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

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

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

Standard Condition: F1

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

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

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

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical / Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1 – "Off-Street car parking."
- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.

- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifying Authority may require.

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

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

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

### F.3 Food premises inspection and registration

Prior to the issue of any *Occupation Certificate* or occupation or use of any food premises:

- a) The *Principal Contractor* or *owner* must arrange an inspection of the fit out of the Food Premises by Council's Environmental Health Officer;
- b) A satisfactory final inspection must have been undertaken by Council's Environmental Health Officer; and
- c) The *owner* or *occupier* must have registered the Food Premises (Notification of conduct under section 100 of the *Food Act* 2003).

**Note:** Notification can be done on-line at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au)

**Note:** Inspections are subject to payment of the adopted inspection fee.

**Note:** Section 100 of the *Food Act* 2003 requires:

"100 Notification of conduct of food businesses

(1) The proprietor of a food business must not conduct the food business unless the proprietor has given written notice, in the approved form, of the information specified in the Food Safety Standards that is to be notified to the appropriate enforcement agency before the business is conducted. Maximum penalty: 500 penalty units in the case of an individual and 2,500 penalty units in the case of a corporation."

**Note:** *Accredited Certifiers* are unable to issue *Compliance Certificates* in relation to compliance with the *Food Act* 2003, *Food Regulation* 2004; the Food Standards Code and the Australian Standard AS 4674-2004: *Construction and fit out of food premises*; since these are not matters which an *Accredited Certifier* can be satisfied in relation to under Clause 161 of the *Regulation*. This condition can only be satisfied following an inspection and sign off from Council's Environmental Health Officers.

Standard Condition: F15 (Autotext FF15)

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

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

If an electricity substation, is required on the site the owner must dedicate to the appropriate energy authority (to its satisfaction), free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors are not to intrude onto the public road (footway or road pavement).

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

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

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

Standard Condition: G4

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

### **H.1 Landscaping**

All landscape work including all planting must be completed by the *principal contractor* or *owner* in compliance with the approved landscape plan, arborist report, transplant method statement and tree management plan. The *principal contractor* or *owner* must provide to PCA a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works as completed comply with this consent.

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

Standard Condition: H9

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

### **I.1 NSW Police requirements**

1. Capacity of the premises should not exceed 150 patrons under any circumstances unless authority is granted by the consent authority for a one off event and the surrounding residents and local Police are informed that such application has been lodged.
2. The management and security of the premises are to ensure that patrons leaving the premises are informed to have consideration for the neighbours and to leave in a manner so as not to cause undue disturbance to the neighbourhood

### **I.2 Hours of use**

The hours of use are limited to the following:

- a) Monday to Saturday: 12 noon to 11.30pm
- b) Sunday and Public Holiday: 12 noon to 10.30pm
- c) The outdoor seating area of the premises is not to be used after 10pm Monday to Sunday, for dining and drinking, in order to minimise impacts to neighbouring residents in accordance with NSW Police requirements
- d) The northern and western doors of the restaurant are to be closed at 10pm to minimise impacts on neighbouring amenity

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

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

### **I.3 Maintenance of Landscaping**

All landscaping must be maintained in general accordance with this consent.

This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.

This condition has been imposed to ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.

**Note:** This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality. Owners should have regard to the amenity impact of trees upon the site and neighbouring land. Further, drought proof vegetation being native species endemic to the immediate locality is encouraged. Suggested native species endemic to the immediate locality are listed in the Brochure Titled "Local Native Plants for Sydney's Eastern Suburbs" published by Woollahra, Waverley, Randwick and Botany Bay Councils.  
Standard Condition: 18

### **I.4 Noise to street and public park**

No music or other performed noise is to be directed out over the footpath of Ocean or Wellington Street, Woollahra, neighbouring residents and the public park being Chiswick Gardens.

### **I.5 Waste Management - Commercial**

The owner and/or occupier must comply with the approved Site Waste Minimisation and Management Plan (SWMMP) and with Council's Site Waste Minimisation and Management Development Control Plan 2010.

All waste must be presented for collection in a receptacle. Waste receptacles must be presented no earlier than the close of business on the day before collection. Waste and recycling bins/crates must be removed from the road or footpath within 1 hour of collection or otherwise in accordance with the approved SWMMP.

Receptacles are not to be stored in any public place at anytime. Waste and recycling receptacles must be stored at all times within the boundaries of the site.

This condition does not apply to the extent that Activity Approval exists under the Local Government Act 1993 or the Roads Act 1993 and subject that all conditions of such approval(s) are complied with.

This condition has been imposed to ensure that the provisions of the approved SWMMP and of Council's Site Waste Minimisation and Management Development Control Plan 2010 are complied with during the ongoing operations of the development.

**Note:** No waste will be collected by Council that isn't presented properly. The waste must be presented with lid closed to reduce littering.  
Standard Condition: I15

## I.6 Outdoor lighting – Commercial

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

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

**Note:** Council may consider, subject to an appropriate section 96 application relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.  
Standard Condition: I43

## I.7 Commercial Waste Management

The owner and any occupier must comply with the approved *Waste Management Plan*. All waste must be presented for collection in a receptacle. Waste receptacles must be presented no earlier than close of business on day before collection and removed from collection point an hour after open of business on day of collection. Receptacles are not to be stored in any public place at anytime. Waste and recycling receptacles must be stored at all times within the boundaries of the site.

**Note:** No waste will be collected by Council that isn't presented properly. The waste must be presented with lid closed to reduce littering.  
Standard Condition: I46

## I.8 Noise Control

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

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

**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>) published 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

## I.9 Noise from licensed premises

The  $L_{A10}$  noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) by more than 5dB(A) between 07:00 am and 12:00 midnight at the boundary of any affected residence.

The  $L_{A10}$  noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.

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

**Note:** dB(A) is a value used for 'A-weighted' sound pressure levels 'A' frequency weighting is an adjustment made to approximate the response of the human ear.

**Note:** *Licensed premises* means premises licensed under the *Liquor Act 2007*

**Note:** For the purposes of this condition, the  $L_{A10}$  is the A-weighted sound pressure level that is exceeded for 10% of the time over which a given sound is measured

**Note:** This condition is identical to the minimum standard condition imposed by the Casino Liquor and Gaming Control Authority (the Authority). The Authority may specify other standards in respect of the above condition under the *Liquor Act 2007*, and associated Regulations. Section 79 of the *Liquor Act 2007* provides an informal mechanism for complaints to be made (by residents, Police, local consent authorities and others) where the amenity of local neighbourhoods is unduly disturbed by the conduct of licensed premises including registered clubs (or their patrons). The Director of Liquor and Gaming is responsible for resolving such complaints and may impose temporary or permanent conditions on any licence. For further information go to the NSW Office of Liquor and Gaming and Racing's website: ([www.olgr.nsw.gov.au](http://www.olgr.nsw.gov.au)).

**Note:** Interior noise levels of licensed premises which exceed safe hearing levels are not supported or condoned by Council.  
Standard Condition: I52

## I.10 Noise from mechanical plant and equipment

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

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

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

### **I.11 Operation of a restaurant**

The operation of a restaurant will be managed in accordance with the current Chiswick Gardens Plan of Management 2010. All activities relating to the operation of the restaurant are to remain within the Licensed area of the property.

### **I.12 Noise from refrigeration equipment**

All refrigeration equipment, which is designed to operate continuously, must operate at a level where the noise emitted from the operation of such equipment must not exceed the *background noise level* when measured at any boundary of the subject site.

### **I.13 Waste collection**

All waste collection services to the restaurant being restricted to the hours of 7am through to 6 pm, Monday through to Saturday to limit any adverse noise impacts on surrounding residential properties from the collection of waste at the restaurant.

### **I.14 Goods deliveries**

Goods deliveries to the restaurant being restricted to the hours of 7am through to 6 pm, Monday through to Saturday to limit any adverse noise impacts on surrounding residential properties. No trucks, refrigerated vans or any other vehicles shall be parked within the goods delivery area of the restaurant prior to or after the hours listed above; similarly, no trucks, refrigerated vans or any other vehicles shall leave engines idle when delivering or accepting goods within the delivery area of the restaurant.

### **I.15 Complaints management**

In the event that a member of the public makes a complain to the restaurant regarding noise or other disturbance, the Manager or Acting Manager shall act expeditiously to address the cause of any such substantial complaint.

The Manager or Acting Manager shall keep a written record of any such complaints and the action taken to address them. Such records shall be available for inspection within 48 hours of a request by a Council Officer.

## **J. Miscellaneous Conditions**

None Relevant.

## **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 Commonwealth Disability Discrimination Act 1992 (“DDA”)

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

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

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

- a) <http://www.hreoc.gov.au/index.html>
- b) [http://www.hreoc.gov.au/disability\\_rights/dda\\_guide/ins/ins.html](http://www.hreoc.gov.au/disability_rights/dda_guide/ins/ins.html)

If you have any further questions relating to the application of the DDA you can send and email to HEROC at [disabdis@humanrights.gov.au](mailto:disabdis@humanrights.gov.au).  
Standard Advising: K3

#### **K.4 Builders Licences and Owner Builders Permits**

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

Further information can be obtained from the NSW Office of Fair Trading website about how you obtain an owner builders permit or find a principal contractor (builder):  
<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.5 Building Standards - Guide to Standards and Tolerances**

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

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

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

The Guide can be 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.6 Workcover requirements**

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

**Note:** Further information can be obtained from Workcover NSW's website:  
<http://www.workcover.nsw.gov.au/Industry/Construction/default.htm> or through their head office:  
Location: Workcover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover  
NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.  
Standard Condition: K7

### **K.7 Asbestos Removal, Repair or Disturbance**

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

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

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

- a) The Occupational Health and Safety Act 2000;
- b) The Occupational Health and Safety Regulation 2001;
- 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.8 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.9 Appeal**

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Sarah Chambers, Senior Assessment Officer, on (02) 9391 7064.

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

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

Standard Condition: K14

### **K.10 Release of Security**

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

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

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

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

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

**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.11 Recycling of Demolition and Building Material**

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

Standard Condition: K17

- Item No:** R2 Recommendation to Council
- Subject:** **14-14A Pacific Street, Watsons Bay – Substantial alterations & additions to a dwelling-house, demolition of ancillary structures, landscaping works & new swimming pool – 28/9/2010**
- Author:** David Booth – Senior Assessment Officer
- File No:** DA513/2010
- Reason for Report:** In accordance with Council’s meeting procedures and policy this matter has been called to full Council by Councillor Howe for the following reasons:
1. Concern from a large number of Local Residents regarding non compliance with Council’s WHCADCP Controls.
  2. Significant Public Interest in the development proposal, particularly the Cultural and Heritage Significance of the property.
  3. In consideration of Items 1 & 2, to allow all Councillors to debate and determine the matter.

**As the voting on the Amendment was 3 votes for the Amendment and 3 votes against the Amendment, both the Motion and Amendment are referred to Council for consideration.**

### **Motion to be submitted to Council**

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

THAT the Council, as the consent authority, is of the opinion that the objections made under SEPP 1-Development Standards to Council's height and foreshore building line development standards are well founded and that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as there is no significant adverse environmental impact associated with the non-compliances.

#### **AND**

THAT the Council, as the consent authority, being satisfied that the objections under SEPP 1 are well founded and also being of the opinion that the granting of consent to Development Application No. 513/2010 is consistent with the aims of the Policy, grant development consent to Development Application No. 513/2010 for substantial alterations and additions to a dwelling-house, the demolition of ancillary structures, landscaping works and a new swimming pool on land at 14-14A Pacific Street, Watsons Bay, subject to the following conditions:

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

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

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

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

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

*Applicant* means the applicant for this Consent.

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

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

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

*Council* means Woollahra Municipal Council

*Court* means the Land and Environment Court

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

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

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

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

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

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

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

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

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

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

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

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

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

*Work* for the purposes of this consent means:

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

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

### 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 to which is affixed a Council stamp “**Approved DA Plans**” and supporting documents listed below as submitted by the Applicant **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)
011-015, 021, 022 & 031	Architectural Plans	Tobias Partners	Sept 2010
Dwg No. SW1 Issue 2	Concept Stormwater Plans	Donnelley Simpson Cleary Consulting Engineers	22/06/2010
23722Zrpt	Geotechnical Report	Jeffery and Katauskas P/L	10/02/2010
LP-DA01E and 02D	Landscape Plans as amended by the Landscape Plan submitted as part of GSA letter dated 17 June 2011	360 degrees	7/10/2010
12112	Arboricultural Impact Assessment	UTM	14 Jul 2010

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

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

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

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

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

## **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.

### **B.2 Recording of Heritage Items prior to any demolition**

A full archival record of the building and landscape elements to be demolished is to be submitted, to the satisfaction of Council's heritage officer, prior to the commencement of any work and prior to the issue of a Construction Certificate.

The archival record is to be completed by a heritage consultant listed by the NSW Heritage Office or by another suitably qualified consultant who must demonstrate a working knowledge of archival principles.

The archival record is to include:

- a) The submitted heritage report including the heritage assessment undertaken in accordance with the current guidelines of the NSW heritage office, the statement of significance, the dilapidation report and the reasons for demolition.
- b) A site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties.
- c) Annotated measured drawings: floor plans, roof plans, elevations and at least one cross section, each at a scale of 1:100.
- d) Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series, Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the NSW Department of Planning Heritage Branch.

The archival record must include:

- Context Photographs- A recording of each site, place or movable item or collection in its context;
- Relationship of Buildings on the Site to Each Other;
- Individual Building or Structures- Photographs of each façade with details where appropriate including but not limited to: eaves, soffits, rainwater heads, downpipes, window reveals and sills, doorways and steps, and balustrades;
- Internal Spaces- Images should be taken in a sequence to show all internal elevations, including floors and ceilings, where possible. Special attention should be placed on structural elements, fittings and any movable items.

There should be three sets of the photographic report and film materials or digital materials. The following table summarises the lodgment details for photographic records, depending on which material is selected. It is satisfactory to supply one material only and digital material is recommended.



<b>Material</b>	<b>Minimum Requirement</b>	<b>Repository</b>
Digital Materials	3 copies of photographic report – paper copy 3 CD-Rs or DVD 1 set of 10.5x14.8cm prints	<u>Woollahra Council</u> Report (paper) + CD-R or DVD + prints <u>Local History Centre</u> Report (paper) + CD-R or DVD <u>Owner/client</u> Report (paper) + CD-R or DVD
Black & White Film (plus any supplementary colour film)	3 copies of photographic report 1 set of negatives 1 sets of proof sheets and catalogue	<u>Woollahra Council</u> Report + negatives + 1st set of proof sheets <u>Local History Centre</u> Report + 2nd set of proof sheets <u>Owner/client</u> Report + 3rd set of proof sheets
Colour Transparencies or Slides	3 copies of photographic report 1 set of original transparencies and two sets of duplicates OR 3 sets of original images taken concurrently	<u>Woollahra Council</u> Report + original transparencies <u>Local History Centre</u> Report + duplicate/concurrent transparencies: <u>Owner/client</u> Report + duplicate/concurrent transparencies

The full archival recording is to be submitted to the satisfaction of Council's heritage officer prior to the commencement of demolition, works and prior to the issue of a Construction Certificate. The original will be retained by Council and a copy will be provided to the Woollahra Local History Library.

These photographic records must be submitted to Council prior to the demolition or removal of any part of the building and landscape elements to be demolished.

**Note:** The NSW Heritage Office Guidelines can be downloaded free of charge from [http://www.heritage.nsw.gov.au/docs/info\\_photographicrecording2006.pdf](http://www.heritage.nsw.gov.au/docs/info_photographicrecording2006.pdf)

### B.3 Establishment of Tree Protection Zones

Before the demolition of any building or construction, a Tree Protection Zone (TPZ) shall be established around the tree/s to be retained not less than the distance shown in the schedule below.

<b>Council Ref No</b>	<b>Species</b>	<b>Location</b>	<b>Radius from Trunk (Metres)*</b>
4	Howea forsteriana (Kentia palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010	Refer table 3 Colum 4, UTM Report
6	Howea forsteriana (Kentia palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010	Refer table 3 Colum 4, UTM Report
7	Syagrus romanzoffianum (Cocos Palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010	Refer table 3 Colum 4, UTM Report
8	Howea forsteriana (Kentia palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010	Refer table 3 Colum 4, UTM Report
9	Howea forsteriana (Kentia palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010	Refer table 3 Colum 4, UTM Report
10	Howea forsteriana (Kentia palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010	Refer table 3 Colum 4, UTM Report
11	Washingtonia filifera (American Cotton Palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010	Refer table 3 Colum 4, UTM Report
14	Syagrus romanzoffianum (Cocos Palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010	Refer table 3 Colum 4, UTM Report
15	Melaleuca quinquenervia (Broad-leaved Paperbark)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010	Refer table 3 Colum 4, UTM Report
16	Ficus rubiginosa (Port Jackson Fig)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010	Refer table 3 Colum 4, UTM Report
21	Ficus rubiginosa (Port Jackson Fig)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010	Refer table 3 Colum 4, UTM Report

- a) Tree Protection Fencing shall be installed at the perimeter of the Tree Protection Zones outlined above. The Tree Protection Fence shall consist of 1.8m high temporary chain wire panels supported by steel stakes. They shall be fastened together and supported to prevent sideways movement. The fence shall have a lockable opening for access. The trees' woody roots shall not be damaged during the installation of the Tree Protection Fencing.
- b) The area within the Tree Protection Zone shall be kept free of weeds and grass, and mulched to a depth of 70mm for the duration of works.
- c) Tree Protection Signage shall be attached to each Tree Protection Zone and displayed in a prominent position. The signs shall be repeated at 10m intervals or closer where the fence changes direction. The signage shall be installed prior to the commencement of works on-site and shall be maintained in good condition for the duration of the works. Each sign shall advise the following details:-
  - i. This fence has been installed to prevent damage to the trees and their growing environment. **Access is restricted.**
  - ii. If access, encroachment or incursion into this Tree Protection Zone is deemed essential, prior authorisation is required by the Site Arborist.
  - iii. Name, address, and telephone number of the developer
- d) The Tree Protection Zone shall exclude the following activities, except as amended by the following conditions:
  - i. Excavations and trenching
  - ii. Modification of existing soil levels
  - iii. Cultivation of the soil
  - iv. Mechanical removal of vegetation
  - v. Soil disturbance
  - vi. Movement of natural rock
  - vii. Storage of materials, plant or equipment
  - viii. Erection of site sheds
  - ix. Affixing of signage or hoarding to the trees
  - x. Preparation of building materials
  - xi. Disposal of waste materials and chemicals
  - xii. Movement of pedestrian or vehicular traffic
  - xiii. Temporary or permanent location of services, or the works required for their installation
  - xiv. Any other activities that may cause damage to the trees
- e) Installation of ground protection specification as detailed in the Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010 (1.2.2 Precautions in respect to temporary work - Ground Protection) within the Tree Protection Zones of Trees 16 and 21.

#### **B.4 Demolition and Construction Management Plan.**

A Demolition and Construction Management Plan in relation to existing trees on/adjacent the subject site must be submitted to Council for further assessment. The plan must consider and make allowance for all construction operations which will be undertaken within the vicinity of existing trees. In particular the plan is to include:

- a) Drawings and method statement showing details of hoarding and scaffold construction and pruning required to accommodate hoarding and scaffolding
- b) Movement of heavy machinery, lifting cranes, Pier drilling gantry etc
- c) How trees will be protected from storage and movements of materials
- d) Site construction access, temporary crossings and movement corridors on the site defined
- e) Contractors carparking
- f) Phasing of construction works
- g) The space needed for all foundation excavations and construction works
- h) All changes in ground level
- i) Space for cranes, plant, scaffolding and access during works
- j) Space for site sheds, temporary latrines (including any drainage) and other temporary structures
- k) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete and
- l) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas

## B.5 Arborists Periodic Site Inspection and Log

To ensure the condition and health of existing trees are maintained an arboricultural log book for the subject property is to be prepared by a qualified arborist and retained by the site foreman. Details of the arborists site inspection are to be recorded in the log during each visit. At each site visit the arborist must check and monitor the condition of existing trees and compliance with approved protection measures or recommend action to improve site conditions. As a minimum the following intervals of site inspections by a qualified arborist must be made.

Stage of arboricultural inspection	Minimum considerations at each stage	Additional visits required determined by arborist notes/comments
Prior to the demolition of any building or construction.	Correct installation of Tree Protection Zone barriers Correct installation of ground protection measures as detailed in B.1 E of these conditions	Make additional site visits as deemed necessary for ongoing monitoring/supervisory work.
During development work.	Tree Preservation and approved works are complied with. Monitor condition of trees Correct maintenance of ground protection measures as detailed in B.1 E of these conditions	Visit site at two week intervals to monitor condition of protection measures.
Prior to the issue of a Final Occupation Certificate.	Supervise the dismantling of tree protection measures.	Make additional site visits as deemed necessary for ongoing monitoring of tree vigour.

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

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

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

- a) In order to mitigate an adverse visual impact upon the streetscape, the front fencing is not to exceed a height of 1.8 m.

- b) In order to address heritage related concerns in terms of providing a record of the original room configuration, the locations of internal walls that are removed are to be permanently marked via the use of an appropriate interface material at the junctions of the removed walls with the perimeter walls, floors and ceilings. This could be the form of a timber strip along floors and ceilings, showing where the existing walls once were. Further details than that shown on drawing HR1, issue A, titled; *Treatment for Removal of Internal Wall*, dated December 2010 are to be submitted for approval to Council's Heritage Officer.
- c) In order to address heritage related concerns in terms of providing a publicly visible interpretation strategy explaining the historic associations of the site, the engraved bronze fencepost detailed on the drawing HR2, issue A, titled; *Historic Association Interpretation Strategy*, dated December 2010, is to be erected. The exact wording of the engraved text for the interpretive panel to the street fence, explaining the Harmer and Stead connections with the property, is to be submitted for approval to Council's Heritage Officer.
- d) In order to address heritage related concerns in relation to the proposed excavation under the significant 2 storey component of the existing house, a structural report is to be prepared cross referencing the geotechnical report referenced in Condition A.3 and identifying the structural systems that are to be employed in order to maintain the structural integrity of the significant 2 storey component of the existing house.
- e) The existing 20<sup>th</sup> century ceiling panelling and Kauri and Bunya pine flooring of the two storey component of the dwelling-house are to be retained.
- f) **In order to mitigate loss of views from 16 Pacific St, the landscaping between the existing *Ficus rubiginosa* (Port Jackson Fig) and the existing *Melaleuca quinquenervia* (Broad-leafed Paperbark) adjacent to the western boundary shall consist of native shrub species that will not exceed 1.8 m above existing ground level at maturity**
- g) **The proposed solid fuel fireplace is to be replaced with a gas fireplace. The height of the chimney (gas flue) is to be a maximum height of 500mm above the roof plane of the proposed single storey rear pavilion.**
- h) **The Canary Island Date Palm is to be retained on site and transplanted some 2.5m to the north of its existing location. If the the Carnary Island Date Palm is not successfully transplanted it is to be replaced with an identical species with a minimum pot size of 1000 litres at time of planting.**
- i) **Details of the external timber slats including their size, spacing and texture to the proposed northern front addition are to be submitted to Council for approval by Council's Director of Planning in consultation with Council's Heritage Officer.**

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

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

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

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

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

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

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

Description	Amount	Indexed	Council Fee Code
<b>LONG SERVICE LEVY</b> under Building and Construction Industry Long Service Payments Act 1986			
<b>Long Service Levy</b> Use Calculator: <a href="http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm">http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm</a>	Contact LSL Corporation or use their online calculator	No	
<b>SECURITY</b> under section 80A(6) of the Environmental Planning and Assessment Act 1979			
<b>Property Damage Security Deposit -</b> Making good any damage caused to any property of the <i>Council</i> as a consequence of the doing of anything to which the consent relates.	\$60,780	No	T600
<b>DEVELOPMENT LEVY</b> under Woollahra Section 94A Development Contributions Plan 2005 This plan may be inspected at Woollahra Council or downloaded from our website <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> .			
Development Levy	\$29,389 + Index Amount	Yes, quarterly	T94
<b>INSPECTION FEES</b> under section 608 of the Local Government Act 1993			
Security Administration Fee	\$180	No	T16
Public Road and Footpath Infrastructure Inspection Fee	\$406	No	T45
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	<b>\$90,755</b> <b>Plus any relevant indexed amounts and long service levy</b>		

#### **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.

### C.3 BASIX commitments

The *applicant* must submit to the *Certifying Authority* BASIX Certificate A80785 with any application for a *Construction Certificate*.

**Note:** Where there is any proposed change in the BASIX commitments the applicant must submit of a new *BASIX Certificate* to the *Certifying Authority* and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (See: Clauses 145 and 146 of the *Regulation*) the applicant will be required to submit an amended development application to *Council* pursuant to section 96 of the Act.

All commitments in the *BASIX Certificate* must be shown on the *Construction Certificate* plans and specifications prior to the issue of any *Construction Certificate*.

**Note:** Clause 145(1)(a1) of the *Environmental Planning & Assessment Regulation 2000* provides: "A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires,"

### C.4 Road and Public Domain Works

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

- a) The existing crossing is to be fully removed and the footpath and K&G are to be reconstructed in accordance with Council's standard drawing RF3.
- b) The construction of a full width vehicular crossings having a width of 4.0m in accordance with Council's standard driveway drawing RF2B.
- c) A design longitudinal surface profile for the proposed driveway must be submitted for assessment. This is to ensure that vehicles to not scrape in accordance with AS2890.1.

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

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

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

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

### C.5 Waste Storage - Single Dwelling Houses

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

- a. a storage area for 1 x 120 litre general wastes bin, 1 x 240 litre green waste bin, 2 x recycling crates behind the building line or within non-habitable areas of the dwelling.
- b. a path for wheeling bins between the waste and recycling storage area and the collection point free of steps and kerbs and having a maximum grade of 1:8.

## C.6 Utility Services Generally

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

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

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

The location of service poles and substations required by the relevant suppliers must be shown upon the plans submitted with any *Construction Certificate* application together with a letter from each relevant supplier setting out their requirements.

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building unless expressly shown upon the approved DA plans. Details confirming compliance with this condition must be shown on the *Construction Certificate* plans and/or detailed within the *Construction Certificate* specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on the *Construction Certificate* plans.

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

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

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

## C.7 Soil and Water Management Plan – Submission & Approval

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

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



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

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

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

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

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

## C.8 Professional Engineering Details

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

## C.9 Structural Adequacy of Existing Supporting Structures

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

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

## C.10 Geotechnical and Hydrogeological Design, Certification & Monitoring

The *Construction Certificate* plans and specification required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation* must be accompanied by a *Geotechnical / Hydrogeological Monitoring Program* together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a *professional engineer*, who is suitably qualified and experienced in geotechnical and hydrogeological engineering. These details must be certified by the *professional engineer* to:

- a. Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure.
- b. Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).
- c. Provide foundation tanking prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time.
- d. Provide tanking of all below ground structures to prevent the entry of all ground water such that they are fully tanked and no on-going dewatering of the site is required.
- e. Provide a Geotechnical and Hydrogeological Monitoring Program that:

- i. Will detect any settlement associated with temporary and permanent works and structures;
- ii. Will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like).

### **C.11 Bicycle, Car and Commercial Parking Details**

The *Construction Certificate* plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3:1993 *Parking Facilities - Bicycle Parking Facilities*, AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* and AS 2890.2:2002 – *Off-Street Parking: Commercial Vehicle Facilities* respectively. The driveway levels on 18 Marine Parade are to be amended as follows:

- The existing footpath level and grade at the street alignment of the property must be maintained.
- The internal garage floor slab is to be adjusted on private property to match the existing street alignment levels.
- Any adjustments required between the garage slab and the street levels are to be carried out internally on private property. The driveway levels are to comply with AS2890.1 and Council's Standard Drawing RF2.
- In order to assist access the garage the entrance is to be widened to a minimum of 3.5m

Access levels and grades must comply with access levels and grade required by Council under the *Roads Act 1993*.

The *Certifying Authority* has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.

### **C.12 Stormwater Discharge to Harbour (Clause 25(2) WLEP 1995)**

The developer must obtain written approval from the NSW Maritime Authority to discharge stormwater from the subject property directly into Sydney Harbour.

### **C.13 Stormwater Management Plan (Clause 25(2) WLEP 1995)**

The *Construction Certificate* plans and specifications, required by clause 139 of the Regulation, must include a *Stormwater Management Plan* for the site.

The *Stormwater Management Plan* must detail:

- a) General design in accordance with Stormwater disposal concept plan prepared by Donnelley Simpson Cleary Consulting Engineers, dated 22/06/2010, Dwg No. SW1 Issue 2 other than amended by this and other conditions;
- b) The discharge of stormwater, by direct connection, to Sydney Harbour;
- c) Compliance the objectives and performance requirements of the BCA;
- d) Any rainwater tank required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*, and
- e) General compliance with the Council's draft Development Control Plan Stormwater Drainage Management (draft version 1.1 public exhibition copy dated 14/12/2006).

The *Stormwater Management Plan* must include the following specific requirements:

## Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Institute of Engineers Australia publication, *Australian Rainfall and Run-off, 1987* edition or most current version thereof.

It must include:

- All pipe layouts, dimensions, grades, lengths and material specification,
- All invert levels reduced to Australian Height Datum (AHD),
- Location and dimensions of all drainage pits,
- Point and method of connection to Councils drainage infrastructure.

Subsoil Drainage - Subsoil drainage details, clean out points, discharge point.

**Note:** This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

## C.14 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](#).

## C.15 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.16 Acoustic Certification of Mechanical Plant & Equipment

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

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

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

## C.17 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.

## C.18 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*.

## C.19 Tree Management Details

The *Construction Certificate* plans and specifications required by clause 139 of the *Regulation* must, show the following information;

- a) trees to be numbered in accordance with these conditions,
- b) shaded green where required to be protected and retained,
- c) shaded yellow where required to be transplanted,
- d) shaded blue where required to be pruned,
- e) shaded red where authorised to be removed and,
- f) references to applicable tree management plan, arborists report, transplant method statement or bush regeneration management plan.

## **C.20 Amended Landscape Plan**

An amended Landscape Plan, prepared by a qualified Landscape Architect or Landscape Designer, in accordance with Councils DA Guide Annexure 8 and conforming to the conditions of this Development Consent is to be submitted to Council for approval prior to issue of the Construction Certificate for further assessment.

Additionally the amended landscape plan must include the following:

- a. Trees 2 and 3 transplanted within the site.
- b. The retention of all other existing kentia palms.
- c. The landscape designer is encouraged to consider the exclusive use of Australian native species to commemorate Thistle Harris and in particular attention is drawn to Wirrimbirra White Waratah (Thistle Harris was the first to propagate this plant).

## **C.21 Amended Stormwater Drainage Plan**

An amended Stormwater Drainage Plan, conforming to the conditions of this Development Consent is to be submitted to Council for approval prior to issue of the Construction Certificate. The plan must show the below ground rain water refuse tank and first flush gross pollutant trap positioned outside the TPZ (13.2m) of Tree 21. This infrastructure shall not be positioned within the TPZ of any tree to be retained.

The stormwater drainage pipes within the Tree Protection Zones of trees to be retained shall be installed as detailed in the Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010 (*1.2.1 Installing underground surfaces*).

## **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.

## D.2 Dilapidation Reports for existing buildings

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

These properties must include (but is not limited to)

- 12 Pacific Street,
- 16 Pacific Street,
- The existing 2 storey component of the existing house at 14 & 14 A Pacific Street (the subject sites).

The dilapidation reports must be completed and submitted to *Council* with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by s81A(2) of the *Act* not less than two (2) days prior to the commencement of any work.

**Note:** The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out
  - To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land
- Also refer to the Dilapidation Report Advising for more information regarding this condition

## D.3 Construction Management Plan

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

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

- a) Describe the anticipated impact of the demolition, excavation and construction works on:
  - Local traffic routes
  - Pedestrian circulation adjacent to the building site
  - On-street parking in the local area
- b) Describe the means proposed to:
  - Manage construction works to minimise such impacts,
  - Provide for the standing of vehicles during construction,
  - Provide for the movement of trucks to and from the site, and deliveries to the site

- c) Show the location of:
- Any site sheds and any anticipated use of cranes and concrete pumps,
  - Any areas of Council property on which it is proposed to install a Works Zone (Construction Zone)
  - Structures to be erected such as hoardings, scaffolding or shoring
  - Any excavation
- d) Describe the excavation impact on the area including
- Number and types of trucks to be used
  - Time frame
  - Streets to be used
  - Routes to be taken
  - Directions of travel
  - Truck storage areas
  - It is recommended that vehicle routes be shared
  - Excavation is to only be carried out outside peak and school hours between 9.30am to 2.30pm week days
- e) Protect Trees, Bushland and Public Open Space:
- Show the location of all Tree Protection (Exclusion) Zones as required within the conditions of this development consent.
  - The storage of building materials in or access through the # Reserve will not be permitted without prior approval by Council.

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

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

#### **D.4 Work (Construction) Zone – Approval & Implementation**

A work zone is required for this development. The *principal contractor* or *owner* must apply for, obtained approval for, pay all fees for and implemented the required work zone before commencement of any work.

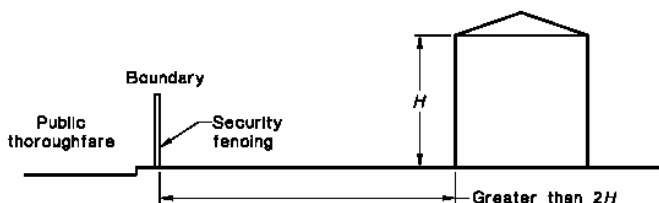
The *principal contractor* must pay all fees associated with the application and occupation and use of the road as a work zone. All Work Zone signs must have been erected by Council to permit enforcement of the work zone by Rangers and Police before commencement of any work. Signs are not erected until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

**Note:** The *principal contractor* or *owner* must allow not less than four weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the Clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Traffic Authority under Section 50 of the *Transport Administration Act 1988*.

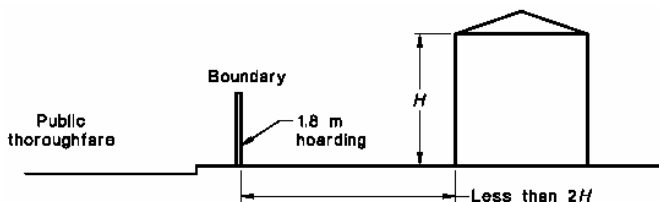
**Note:** The enforcement of the work zone is at the discretion of Council's Rangers and the NSW Police Service. The principal contractor must report any breach of the work zone to either Council or the NSW Police Service.

## D.5 Security Fencing, Hoarding and Overhead Protection

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



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



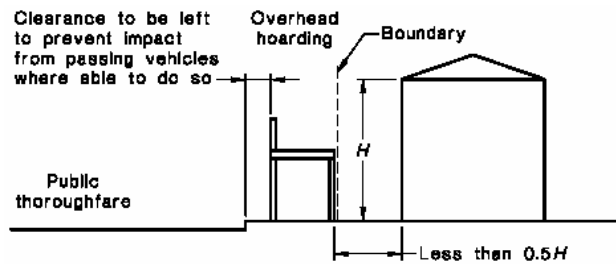
Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either

- the vertical height above footpath level of the structure being demolished is less than 4.0 m; or
- 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

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





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

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

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

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

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

## D.6 Erosion and Sediment Controls – Installation

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

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

Where there is any conflict The Blue Book takes precedence.

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

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

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

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

## D.7 Site Signs

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

“Erection of signs

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

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

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

## D.8 Toilet Facilities

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

Each toilet provided:

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

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

In this condition:

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

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

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

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

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

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

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

- a. a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited Certifier, and
- b. the person having the benefit of the development consent has:
  - i. appointed a principal certifying authority for the building work, and
  - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- b1. the principal certifying authority has, no later than 2 days before the building work commences:
  - i. notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
  - ii. notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- b2. the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
  - i. 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
  - ii. notified the principal certifying authority of any such appointment, and
  - iii. 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
  - iv. 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*.

## D.10 Notification of Home Building Act 1989 requirements

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

## D.11 Establishment of boundary location, building location and datum

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

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

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

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

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

### E.1 Tree Preservation

All persons must comply with Council's *Tree Preservation Order* ("the TPO"), other than where varied by this consent. The order applies to any tree, with a height greater than 5 metres or a diameter spread of branches greater than 3 metres unless exempted by specific provisions.

#### General Protection Requirements:

- a) Unless specified in this Consent, there must be no excavation or *work* within the required Tree Protection Zone(s). The Tree Protection Zone(s) must be maintained during all *development work*.
- b) Roots with a diameter equal to or greater than 20mm which are located within the Tree Protection Zones of trees to be retained must not be damaged or severed. A qualified Arborist (minimum AQF Level 5) must inspect and note all exposed roots. Excavation must only recommence when the Arborist is satisfied works can be achieved in accordance with the Conditions in this Development Consent.
- c) Any damage to above or below parts of the tree must be inspected by the Site Arborist. The *principal contractor* must immediately implement treatment as directed by the arborist or where specific instructions are given by Council's Tree Management Officer in strict accordance with such Council instructions.

**Note:** Trees must be pruned in accordance with *Australian Standard AS 4373 "Pruning of Amenity Trees"* and *WorkCover NSW Code of Practice Amenity Tree Industry*.

### E.2 Tree Preservation & Approved Landscaping Works

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

- a) The following trees on privately owned land must be retained

Council Ref No	Species	Location
4	Howea forsteriana (Kentia palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010
6	Howea forsteriana (Kentia palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010
7	Syagrus romanzoffianum (Cocos Palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010
8	Howea forsteriana (Kentia palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010
9	Howea forsteriana (Kentia palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010
10	Howea forsteriana (Kentia palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010
11	Washingtonia filifera (American Cotton Palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010
14	Syagrus romanzoffianum (Cocos Palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010
15	Melaleuca quinquenervia (Broad-leafed Paperbark)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010
16	Ficus rubiginosa (Port Jackson Fig)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010
21	Ficus rubiginosa (Port Jackson Fig)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010

- b) The following trees must be transplanted and successfully established in the location(s) indicated on the approved landscape plan:

Council Ref No	Species	Location
2	Howea forsteriana (Kentia palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010
3	Howea forsteriana (Kentia palm)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010
12	<b>Phoenix canariensis (Canary Island Date palm)</b>	<b>Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010</b>

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

- c) The following trees may be removed:

Council Ref No	Species	Location
1	Olea europea var. africana (African Olive)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010
5	Eucalyptus robusta (Swamp Mahogany)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010
13	Ficus rubiginosa (Port Jackson Fig)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010
17	Angophora costata (Sydney Red Gum)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010
18	Banksia integrifolia (Coastal Banksia)	Adjacent to the western side boundary
19	Eucalyptus haemastoma (Scribbly Gum)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010
20	Erythrina x sykesii (Coral tree)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010

**Note:** The tree/s that may be removed should appear coloured red on the construction certificate plans.

- d) The following tree may be pruned in accordance with Australian Standard AS 4373 – 2007 “Pruning of Amenity Trees” and Workcover NSW Code of Practice Amenity Tree Industry, 1998 to the minimum extent necessary to provide clearance to the new development:

Council Ref No	Species	Location	Approved pruning (extent of pruning)
16	Ficus rubiginosa (Port Jackson Fig)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010	Selective Prune (S) to remove two (2) branches originating at 3m and 4m above grade extending north. Approximate branch diameters 100mm.

**Note:** The trees required to be pruned should appear coloured blue on the construction certificate plans.

**Note:** Water Restrictions take precedence over this condition.

**Note:** Having regard to water restrictions manual hosing may be necessary.

### E.3 Replacement trees which must be planted

The following replacement trees must be planted to ensure the preservation of the landscape character of the area. Areas for future planting must be plotted on the submitted landscape or architectural plans. These trees must be protected from direct and indirect damage such as grade alterations and soil compaction. Any replacement plant is to be maintained in a healthy and vigorous condition until it is protected by Council's Tree Preservation Order. If the replacement plant is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting Location	Size of Tree (at time of planting)
	As detailed in Landscape Plan LP-DA01 and 02 prepared by 360 degrees, dated April 2010	
Banksia integrifolia (Coastal Banksia)	In approximately the same location as the existing Banksia integrifolia (Coastal Banksia) adjacent to the western side boundary.	100 litre pot size

### E.4 Level changes in the vicinity of trees

No level changes are to occur within the specified radius from the trunks of the following trees to allow for the preservation of their root zones.

Council Ref No:	Species	Location	Radius from Trunk (metres)
16	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010	9.6
21	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010	13

### E.5 Hand excavation within tree root zones

Excavation undertaken within the specified radius from the trunks of the following trees must be hand dug using non motorised hand tools only.

Council Ref No:	Species	Location	Radius from Trunk (metres)
16	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010	9.6
21	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Refer Arboricultural Impact Assessment prepared by UTM, dated 14 July 2010	13

Roots with a diameter equal to or greater than 20mm are to be retained, protected and not damaged. Mechanical excavation is permitted beyond this radius.

All root pruning is to be undertaken by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 4 or recognised equivalent). All root pruning must be by a qualified Arborist (minimum qualification of *Australian Qualification Framework Level 4* or recognised equivalent).

All roots pruned must be recorded in the Arborist Periodic Site Inspection Log. The likely impact on the tree resultant from the root pruning must also be stated.

Roots exposed during excavation must be covered with a mulch or geotextile fabric. Exposed roots shall also be watered to prevent drying out.

#### **E.6 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.

#### **E.7 Compliance with Construction Management Plan**

All development activities and traffic movements must be carried out in accordance with the approved construction management plan.

All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on-site at all times and made available to the *PCA* or *Council* on request.

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

#### **E.8 Maintenance of Vehicular and Pedestrian Safety and Access**

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

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

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



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

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

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

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

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

Part C Management of Waste:

- “1. For fee or reward, transport waste over or under a public place
2. Place waste in a public place
3. Place a waste storage container in a public place.”

Part E Public roads:

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

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

## E.9 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;
- g) <insert or delete such controls as may be necessary in the circumstances of the consent>

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

## E.10 Compliance with Geotechnical/Hydrogeological Monitoring Program

Excavation must be undertaken in accordance with the recommendations of the *Geotechnical / Hydrogeological Monitoring Program* and any oral or written direction of the supervising *professional engineer*.

The *principal contractor* and any sub-contractor must strictly follow the *Geotechnical / Hydrogeological Monitoring Program* for the development including, but not limited to;

- a) the location and type of monitoring systems to be utilised;
- b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the *professional engineer*; and
- c) the contingency plan.

**Note:** The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the Development Application to be appointed as the *professional engineer* supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.

### E.11 Support of adjoining land and buildings

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

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

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

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

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

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

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

### E.12 Erosion and Sediment Controls – Maintenance

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

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

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



- Note 1:** A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.
- Note 2:** Section 257 of the Protection of the Environment Operations Act 1997 provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”. **Warning,** irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

### E.13 Disposal of site water during construction

The principal contractor or owner builder must ensure:

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

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

### E.14 Site Cranes

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

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

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

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

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

**Note:** Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the *principal contractor* or *owner builder* must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land & Environment Court Act 1979* as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.  
Standard Condition: E19

### **E.15 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.

### **E.16 Critical Stage Inspections**

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

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

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

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

### **E.17 Hours of Work –Amenity of the neighbourhood**

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

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

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

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

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

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

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

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

### **E.18 Check Surveys - boundary location, building location, building height and stormwater drainage system 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) and the stormwater drainage system relative to the boundaries of the *site* and that the height of buildings 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 structures, swimming pool or spa pool or the like;
- e) Driveway transitions and crest thresholds prior to pavement of driveways;
- f) Stormwater Drainage Systems prior to or post construction confirming location, height and capacity of works.

**Note:** This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent.

### **E.19 Placement and use of Skip Bins**

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

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

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

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

## E.20 Dust Mitigation

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

This generally requires:

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

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

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

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

## E.21 Vibration Monitoring

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

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

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the *professional engineer* and any further work recommencing the event must be recorded and the cause of the event identified and documented by the *professional engineer*.

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

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

A copy of any written direction required by this condition must be provided to the *Principal Certifying Authority* within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the *professional engineer*, *principal contractor* and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the *professional engineer* to prevent any further damage and restore support to the *supported land*.

**Note:** *Professional engineer* has the same mean as in Clause A1.1 of the BCA.

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

**Note:** *Supported land* has the same meaning as in section 88K of the Conveyancing Act 1919.

## **E.22 Compliance with Council’s Specification for Roadworks, Drainage and Miscellaneous Works Road works and work within the Road and Footway**

All work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the *development* to which this consent relates must comply with Council’s *Specification for Roadworks, Drainage and Miscellaneous Works* dated January 2003.

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

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

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

## **E.23 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.

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

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*.

## **E.24 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).

## **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 Amenity Landscaping**

The *owner* or *principal contractor* must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

**Note:** This condition has been imposed to ensure that the environmental impacts of the development are mitigated by approved landscaping prior to any occupation of the development.

### **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 must comply with Australian Standard AS 2890.1 – “Off-Street car parking.”
- d. All stormwater drainage systems.
- e. All mechanical ventilation systems.
- f. All hydraulic systems.
- g. All structural work.
- h. All acoustic attenuation work.
- i. All waterproofing.
- j. Such further matters as the *Principal Certifying Authority* may require.

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



- Note:** The *PCA* may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, Development Standards, *BCA*, and relevant *Australia Standards*. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).
- Note:** The *PCA* must submit to Council, with any *Occupation Certificate*, copies of works-as-executed (“WAE”) plans, *Compliance Certificates* and evidence of suitability in accordance with Part A2.2 of the *BCA* upon which the *PCA* has relied in issuing any *Occupation Certificate*.

### **F.3 Occupation Certificate (section 109M of the Act)**

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

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

### **F.4 Letter Box(es)**

All letter boxes must be constructed and located in accordance with AS/NZS 4253:1994 Mailboxes and to Australia Post’s satisfaction.

**Note:** This condition has been imposed to ensure that mail can be delivered to occupiers of the site.

### **F.5 Swimming and Spa Pools – Permanent Child Resistant Barriers and other matters**

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) Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992*.
- b) The *Principal Contractor* or *owner* must apply for and obtain a Compliance Certificate under section 24 of the *Swimming Pools Act 1992*.
- c) 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.
- d) 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:

- a) 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:
- b) 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>

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

N/A

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

### **H.1 Landscaping**

All landscape work including all planting must be completed by the *principal contractor* or *owner* in compliance with the approved landscape plan, arborist report, transplant method statement and tree management plan. The *principal contractor* or *owner* must provide to PCA a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works as completed comply with this consent.

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

### **H.2 Bush Regeneration**

Bush regeneration must be completed in accordance with the approved bush regeneration plan. The *principal contractor* or *owner* must provide to PCA certification from a qualified bush regenerator that the works as completed comply with this consent.

**Note:** This condition has been imposed to ensure that bush regeneration work required under the consent have been completed prior to the issue of any *Final Occupation Certificate*.

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

The following works must be completed to the satisfaction of Council, in accordance with the *Roads Act 1993* approvals and comply with Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" dated January 2003 unless expressly provided otherwise by these conditions at the *principal contractor's* or *owner's* expense:

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

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

### **H.4 Fulfillment of BASIX commitments – Clause 154B of the Regulation**

All BASIX commitments must be effected in accordance with the BASIX Certificate No A80785.

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

## **H.5 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*.

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

### **I.1 Maintenance of Landscaping**

All landscaping must be maintained in general accordance with this consent.

This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.

**Reason:** This condition has been imposed to ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.

**Note:** This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality. Owners should have regard to the amenity impact of trees upon the site and neighbouring land. Further, drought proof vegetation being native species endemic to the immediate locality is encouraged. Suggested native species endemic to the immediate locality are listed in the Brochure Titled "Local Native Plants for Sydney's Eastern Suburbs" published by Woollahra, Waverley, Randwick and Botany Bay Councils.

### **I.2 Maintenance of BASIX commitments**

All BASIX commitments must be maintained in accordance with the BASIX Certificate A80785.

**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.

### **I.3 Outdoor lighting – Residential**

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

**Reason:** This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

**Note:** This condition has been imposed to control the obtrusive effects of outdoor lighting.

## I.4 Noise from mechanical plant and equipment

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

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

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.

## I.5 Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*. This condition has been imposed to protect the amenity of the neighbourhood.

**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>) published 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)).

## J. Advising

### J.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 are also a criminal offence.

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

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;

- Prosecute any person breaching this consent; and/or
- 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).

## **J.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.

## **J.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.

#### **J.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.

#### **J.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.

#### **J.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:

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

#### **J.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.

## **J.8 Dividing Fences**

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

## **J.9 Appeal**

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **David Booth, Senior Assessment Officer** on (02) 9391 7119. 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.

## **J.10 Release of Security**

An application must be made to Council by the person who paid the security for release of the securities held under section 80A of the *Act*. The securities will not be released until a *Final Occupation Certificate* has lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed. Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the Bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

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

### **J.11 Recycling of Demolition and Building Material**

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

### **J.12 Owner Builders**

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

### **J.13 Pruning or Removing a Tree Growing on Private Property**

Woollahra Municipal Council's *Tree Preservation Order 2006* (TPO) may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment. Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the TPO from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or you may contact Council on 9391-7000 for further advice.

### **J.14 Dilapidation Report Condition**

Please note the following in relation to the condition for a dilapidation report:

- a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the Developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the applicant is to demonstrate in writing to the satisfaction of the Council that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

### **J.15 Roads Act Application**

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

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



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

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

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

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

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

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

Drainage design works must comply with the Council’s draft Development Control Plan Stormwater Drainage Management (Draft Version 1.1, Public Exhibition Copy dated 14 December 2006), and

Temporary ground anchors may be permitted, in accordance with Council’s “*Rock Anchor Policy*”.

All public domain works must comply with Council’s “*Specification for Roadworks, Drainage and Miscellaneous Works*” dated January 2003 unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) .

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

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

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

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

**Amendment to be submitted to Council**

THAT the Council, defer Development Application No. 513/2010 for substantial alterations and additions to a dwelling-house, the demolition of ancillary structures, landscaping works and a new swimming pool on land at 14-14A Pacific Street, Watsons Bay, for the applicant to submit revised plans to modify the front northern addition.

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**Item No:** R3 Recommendation to Council  
**Subject:** **27 Chamberlain Avenue, Rose Bay – Section 96 Application – Proposed Modification of Condition No. C.1 specifically relating to front stair balustrade, lower western terrace balustrade & location of flag pole – 21/3/2011**  
**Author:** Lauren Baroukh – Assessment Officer  
**File No:** DA32/2007 Part 5  
**Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to the Committee’s recommendation being a substantive change to the Officer’s recommendation.

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

A. THAT Council, as the consent authority, modify development consent to Development Application No. 32/2007/5 for alterations and additions to the existing dwelling house on land at 27 Chamberlain Avenue Rose Bay, in the following manner:

**The addition of the following condition:**

**A.3d) Approved Amended (s96) Plans and supporting documents**

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

Reference	Description	Author/Drawn
Sec 96 1 (17 March 2011) Sec 96 1 (14 April 2011)	Architectural Plans	S&S Malik Architects

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

Standard Condition: A6

**The modification of the following condition:**

**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: -

- the existing timber decking between the rear boundary and swimming pool is to be replaced with a deep soil landscaped strip and planted with 2 x *Elaeocarpus reticulatus*’ (Blueberry Ash). A revised landscape plan is to reflect this requirement

- the introduction of a fixed privacy screen, to a minimum height of 1.7m, on the northern and southern elevations of the front terrace on the **top** floor level
- the RL of the proposed dwelling (including roof overhangs, eaves upturns) to not exceed 69.27
- the staircase on the southern side of the front terrace on the ground floor level is to be designed in accordance with the Building Code of Australia but is not to incorporate any landing within the staircase
- the window to the ensuite in the south eastern corner of the lower ground floor level is to have a minimum sill height of 1.7m
- The flagpole is to be located 7.8m from the northern boundary and 7.2m from the southern boundary to maintain adequate separation from the adjoining properties at 25 and 29 Chamberlain Avenue. Additionally the flagpole is to consist of a maximum flag of 2.5m<sup>2</sup> in area. The use of the flag pole is to be limited between the period of sunrise and sunset.
- The masonry balustrade to the front external stair (spiral) is to be removed and replaced with a glass balustrade.
- The entire southern balustrade and part western balustrade including the zig zagged portion to the lower ground floor terrace (as marked on the approved S96 plan) is to be a maximum overall height of 1m; The balustrade is to be solid masonry to a maximum height of 0.8m with a transparent glass panel atop with a maximum height of 0.2 m.

**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

- B. THAT, as the unauthorised work (location of flagpole) as recommended to be modified, is considered to be satisfactory with regard to the relevant objectives and controls of Woollahra Local Environmental Plan 1995 and Woollahra Residential Control Plan 2003, Council take no action to require these works to be removed subject to the owners making an application for, and Council issuing, a building certificate under Section 149A-149G of Environmental Planning and Assessment Act 1979 for the works.

The required building certificate application is to be submitted to Council within 28 days and is to be accompanied by the following:

- Full works as executed plans, duly coloured showing the works that have been undertaken without Council consent;
- A certificate from a practising structural engineer certifying the structural adequacy of the works that have been undertaken without Council consent; and
- A survey report prepared by a registered surveyor, documenting the level and location of the works relative to the boundaries of the site.

- C. THAT this matter be referred to the Manager – Compliance to take appropriate action under Part 6 of the Environmental Planning and Assessment Act 1979 in accordance with Council's Policy on Unauthorised Uses, Buildings and Works for failure to obtain Council's consent prior to carrying out the unauthorised works.

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## 9.3 Urban Planning Committee

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### Items with Recommendations from the Committee Meeting of Tuesday 14 June 2011 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** **Draft Woollahra Section 94A Development Contributions Plan 2011**  
**Author:** Anne White – Senior Strategic Planner  
**File No:** 1180.G  
**Reason for Report:** To obtain Council's decision to prepare and exhibit the Draft Woollahra Section 94A Development Contributions Plan 2011, which will repeal Woollahra Section 94A Development Contributions Plan 2009.

**Recommendation:**

- A. That the Council resolve to prepare a contributions plan to authorise the imposition of conditions under Section 94A of the *Environmental Planning and Assessment Act 1979*.
- B. That the Draft Woollahra Section 94A Development Contributions Plan 2011 as contained in **Annexures 1 and 2** of the report to the Urban Planning Committee meeting on 14 June 2011 be placed on public exhibition.

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**Item No:** R2 Recommendation to Council  
**Subject:** **Net Dwelling Yield and The New Woollahra Local Environmental Plan**  
**Author:** Jacquelyne Jeffery – Team Leader Strategic Planning  
**File No:** 1064.G Principal LEP  
**Reason for Report:** To respond to a Council resolution requesting a report on mandating additional dwellings when additional floor space and height is allowed.

**Recommendation:**

That Council does not pursue approaches to regulate net dwelling yield in the new Woollahra Local Environmental Plan.

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

**Recommendation:**

That Councillors ask Questions for Next Meeting in accordance with Council's Code of Meeting Practice.

**Background:**

The provision for Councillors to ask Questions for Next Meeting is contained in Section 3.2 of Council's Code of Meeting Practice which states:

**3.2 QUESTIONS FOR NEXT MEETING – No previous notice of questions required**

- 1) *As a standard practice, "Questions for Next Meeting" shall be listed in all agendas of Ordinary Meetings of Council. The agenda item shall contain a report of the questions asked at the last Council Meeting and the responses to those questions and provide an opportunity for the Councillors to ask questions for the next Council Meeting.*
- 2) *Questions asked at a Council Meeting shall also be submitted in writing.*
- 3) *The Councillor must put every question directly, succinctly and without argument.*
- 4) *The Mayor shall refer the question to the General Manager or responsible Division Head, or if the question is directed to another Councillor, the Councillor concerned. There shall be no requirement to answer the question immediately.*
- 5) *If the answer to a question can be given immediately, and it makes sense to do so, then such shall be done and a record made in the Minutes of the Meeting. If an answer can be given, but not immediately, then the Mayor shall indicate to whom the question is to be directed.*
- 6) *In the spirit of achieving the expeditious discharge of Council business the agenda item "Questions for Next Meeting" shall generally be limited to not more than 30 minutes duration unless the Council determines otherwise, on the evening in question and by way of specific resolution.*

Questions for Next Meeting should be asked in accordance with the Code of Meeting Practice.

**Note:** **No Questions for Next Meeting were asked by Councillors at the last Council Meeting.**

Gary James  
General Manager

**POLITICAL DONATIONS DECISION MAKING FLOWCHART  
 FOR THE INFORMATION OF COUNCILLORS**

