

Ordinary Council Meeting Minutes



Minutes: *Ordinary Council Meeting*

Date: *Monday 14 August 2017*

Time: *8.00pm*

Ordinary Council Meeting

Monday 14 August 2017

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Items Determined Under Delegated Authority by Council Committees

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

Urban Planning Committee held on Monday 24 July 2017

D1 Confirmation of Minutes of Meeting held on 10 July 2017

Community & Environment Committee held on Monday 24 July 2017

D1 Confirmation of Minutes of Meeting held on 10 July 2017
D2 Woollahra Libraries Annual Report 1 July 2016 to 30 June 2017
D3 Gazettal of Street Names - HMAS Watson

Development Control Committee held on Monday 07 August 2017

D1 Confirmation of Minutes of Meeting held on 17 July 2017
D2 DA2016/322/1 - 516 Old South Head Road, Rose Bay
D3 DA2017/297/1 - 16A/23 Thornton Street, Darling Point
D5 DA240/2017/1 - 5 Manning Road Double Bay
D6 DA2017/118/1 - 81 Jersey Road, Woollahra
D7 DA419/2016/2 - 163 Hopetoun Avenue Vaucluse
D8 DA216/2016/1 - 33 Elizabeth Street Paddington
D10 DA32/2017/1 13 Manning Road Double Bay
D11 DA48/2017/1 25/337 New South Head Road Double Bay
D12 Register of current land and environment court matters and register for court proceedings for building control, environmental control and health control

Corporate & Works Committee held on Monday 07 August 2017

D1 Confirmation of Minutes of Meeting held on 17 July 2017
D2 Disclosure of Interest Returns Submitted by Designated Employees for the Period 1 April 2017 to 30 June 2017
D3 Closing and Sale of Road Reserve - 2 Wunulla Road, Point Piper (SC3776)
D4 Closing and Sale of Road Reserve - 592 New South Head Road, Point Piper (SC3778)
D5 Closing and Sale of Road Reserve - 18 Hopetoun Avenue, Vaucluse (SC3742)



Ordinary Council Meeting

**Minutes of the Meeting of Woollahra Municipal Council
held at the Council Chambers, 536 New South Head Road, Double Bay, on
14 August 2017 at 8.12pm.**

Present: Her Worship the Mayor, Councillor Toni Zeltzer (not Items R1- DCC & R1- UP)
Councillors: Ted Bennett
Peter Cavanagh
Luise Elsing (not Items R1- DCC & R1 - UP)
Greg Levenston (not Item R1 - C&W)
Anthony Marano
Katherine O'Regan
Andrew Petrie
Matthew Robertson
Deborah Thomas
Susan Wynne Chair (Items R1- DCC & R1 – UP)

Staff: Sharon Campisi (Acting Director – Community Services)
Allan Coker (Director – Planning & Development)
Stephen Dunshea (Director – Corporate Services)
Gary James (General Manager)
Sue O'Connor (Secretarial Support – Governance)
Tom O'Hanlon (Director – Technical Services)
Helen Tola (Manager – Governance & Council Support)

Also in Attendance: Nil

Note: The Council moved Mayoral Minutes 6.2 (Legal Proceedings following the State Government's decision to abandoned forced mergers) to be heard last so Council could move into Confidential Closed Session.

Confirmation of Minutes

(Elsing/Wynne)

167/17 Resolved:

That the Minutes of the Ordinary Council Meeting held on 24 July 2017 be taken as read and confirmed.

Leave of Absence and Apologies

Nil

Declarations of Interest

Councillor Levenston declared a Pecuniary Interest in Corporate & Works Committee Item R1 (Cross Street Carpark Redevelopment), given the close proximity of his residence to the Cross Street Carpark. Councillor Levenston left the meeting and did not participate in the debate or vote on this matter.

Councillor Elsing declared a Significant, Non-Pecuniary Interest in Development Control Committee Item R1 (6 & 8 Queens Avenue, Vaucluse), & Urban Planning Committee Item R1 (374 and 376-382 New South Head Road, Double Bay), as she is a Panel member of the Sydney Central Planning Panel (SCPP). Councillor Elsing vacated the meeting and did not participate in the debate or vote on this matter.

The Mayor Councillor Zeltzer declared a Significant, Non-Pecuniary Interest in Development Control Committee Item R1 (6 & 8 Queens Avenue, Vaucluse), & Urban Planning Committee Item R1 (374 and 376-382 New South Head Road, Double Bay), as she is a Panel member of the Sydney Central Planning Panel (SCPP). Councillor Zeltzer vacated the meeting and did not participate in the debate or vote on this matter.

Late Correspondence

Note: Council resolution of 27 June 2011 to read late correspondence in conjunction with the relevant Agenda Item Mayoral Minutes 6.1 (Vale David Fulton Rofe QC) & 6.2 (Legal Proceedings following the State Government's Decision to Abandoned Forced Mergers) & Item R1 – Urban Planning Committee (374 & 376-382 New South Head Road, Double Bay) & Item R2 – Development Control Committee (47 Birriga Road, Bellevue Hill).

Petitions Tabled

Nil

Mayoral Minute

Item No: 6.1
Subject: VALE DAVID FULTON ROFE QC
Author: Toni Zeltzer, Mayor of Woollahra
File No: 17/140533
Reason for Report: To place on public record our sympathy to the family and friends of the late David Fulton Rofe QC and to convey our gratitude for his valued and commendable public service as a former Woollahra Mayor and Alderman.

(Wynne/Elsing)

168/17 Resolved:

- A. THAT Council place on public record its Woollahra Council's recognition of the outstanding contributions to the community made by the late David Fulton Rofe QC through his representation as a former Mayor and Alderman.
- B. THAT the Mayor write on behalf of the Council and the community to the family of David Fulton Rofe QC to convey our sympathy and our gratitude for his service to the community of Woollahra.

David Rofe QC (1932-2017) a respected member of the NSW Bar and former Alderman and Mayor of Woollahra (1981-2) died on 21 July 2017 at the age of 85.

David was born at the family home Wyanbi in Rose Bay, the youngest of five children. His father, Wyndham, died when he was just five. His mother Florence, lived until 1974 to see her son graduate, gain admission to the bar and take silk.

From Florence Rofe nee Shand came his relationship with the Shand family, and a series of eminent leading counsel: Alexander Barclay Shand KC (1865-1949), John Wentworth (Jack) Shand QC (1897-1959) and Alexander (Alec) Barclay Shand, QC (1929-2011). When the youngest of this line died, an obituary commented:

Even in a profession as dynastically inclined as the law, it is rare - if not unique - to find a grandfather, father and son taking silk (even the Streets did not accomplish this until 1996). But for one family to have produced three of the most outstanding courtroom advocates of their successive generations is extraordinary. For more than a century from the mid-1880s, AB, JW and Alec Shand demolished witnesses, defeated prosecutors and dazzled juries.

McGinness, Mark, 'Alec Shand, 1929-2011'
Obituaries Sydney Morning Herald 28.7.2011.

This family background almost certainly influenced David Rofe's choice of career, and set the scene for his own long and distinguished practice of the law.

David was educated at the Scots College and the University of Sydney. He was admitted to the Bar in 1956 and he worked as a barrister, based on the 12th floor of the Wentworth Chambers. He took silk in 1974 with eminent colleagues Anthony Gleeson, Roderick Meagher, Malcolm McLelland and Barry O'Keefe.

During his distinguished career, Rofe led the private prosecution in the Khemlani 'loans affair' which was played out in the High Court in 1976. He was also involved in several high profile cases, which included ICAC investigations. On reflection he commented that his involvement with these cases earned him no favours with either the Liberal or Labor Party. It was his strong sense of justice, independence and determination that earned him the respect of our local community as he exercised these characteristics as an elected representative. These qualities are to be admired and are the source of our gratitude today as we pay tribute to a truly remarkable man.

Rofe was an asset to Woollahra Council during his 14 years as an Alderman for the Bellevue Hill Ward as a member of the Woollahra Action Committee. Elected in 1977, Rofe served as the Deputy Mayor twice in 1980 and 1983 and was Mayor from 1981-82. He campaigned strongly against amalgamation threats and was committed to preserving low rates and opposing high rise development. He was well known for his debating skills making him a powerful and persuasive advocate for the community.

I am certain David Rofe would have been happy with the Government's recent decision to abandon their forced merger proposal for Woollahra.

Here is a stirring photograph from the Woollahra Library's local history collection of David in action addressing a protest meeting at Wintergarden Theatre, Rose Bay, against potential amalgamation of local councils 16 March 1983. It seems history repeats itself considering our recent and protracted fight to retain our council's independence.

David lived his entire life in the Woollahra area, moving from his childhood home in Rose Bay to Edgecliff Road Woollahra in 1977, when he stood for election to Woollahra Council. In 1980 he moved a short distance away to Rosemount Avenue, Woollahra where he stayed up until the last few months of his life.

David's life was remembered at a service held at the All Saints Anglican Church, Woollahra on Tuesday 1 August.



I will be writing to David's extended family and to those friends who took an active role in his care in recent years, to express our condolences and appreciation for his public service to the people of Woollahra.

Cr Toni Zeltzer
Mayor of Woollahra

Item No: 6.2
Subject: **LEGAL PROCEEDINGS FOLLOWING THE STATE GOVERNMENT'S DECISION TO ABANDONED FORCED MERGERS**
Author: Toni Zeltzer, Mayor of Woollahra
File No: 17/145664
Reason for Report: To advise Council on legal matters pertaining to the State Government's decision to abandon the forced merger of Woollahra Council.

(Petrie/Robertson)

THAT the Council resolve to enter into closed session with the press and public excluded to consider the Mayoral Minute 6.2, in accordance with the provisions of Section 10A(2)(g) of the Local Government Act 1993.

Adopted

In Closed Session

The Councillors discussed the status of Council's legal proceedings in the High Court following the State Government's decision to abandon forced mergers.

(Petrie/Robertson)

That the Committee move into "Open Session"

Adopted

In Open Session

(Wynne/Robertson)

169/17 Resolved:

THAT Council:

- A. Note and welcome the State Government's decision to abandon the proposed merger of Woollahra Council with Waverley and Randwick Councils
- B. Note that discussions are currently underway between the Crown Solicitor's Office, the High Court Registrar and Council's legal team on how best to conclude the proceedings in the High Court.
- C. Receive a briefing from our legal team on the following:
 - i. Options, implications or other relevant considerations available on recovery of legal costs.
 - ii. Update on any negotiations that have occurred between our lawyers and the State Government through the Crown Solicitors Office.
 - iii. Prospects of success and potential costs if we pursue an action for recovery of costs.
- D. Formally thank our legal team at Speed and Stracey Lawyers for their tireless efforts in pursuing Council's legal action against the forced merger proposal.

It was with great delight that we received news on Thursday 21 July 2017 that the State Government was abandoning all pending council mergers that were still before the courts. Finally the long fight on behalf of our community for Woollahra to remain a stand-alone council is over. Throughout the battle, this Council remained resolute in our commitment to representing the best interests of our community who told us loudly and clearly that they wanted to retain their local identity and their close connection to local representation.

This is a great outcome for Woollahra and a big win for local democracy.

As I have already stated publicly through the media, when the Premier came into office she made a commitment to listen to the people of NSW and this announcement was a clear demonstration that she has done just that. Local communities across NSW have been saying they want to have a say on the future of their local areas and they care deeply about having their voice heard.

Through this Mayoral Minute, I place on the public record this Council's commendation to both the Premier, Gladys Berejiklian and the Minister for Local Government, Gabrielle Upton for respecting local communities and their right to determine their own future.

It is a tremendous relief that as a Council we can continue to focus fully on doing what we do best - that is getting on with the job of looking after our local community.

At the time of the Premier's announcement we were waiting on confirmation from the High Court of the date for our Appeal Hearing which was expected to be in the High Court sitting dates between 9 and 19 October 2017. With the State Government abandoning the merger proposal the appeal hearing is no longer required. How the matter is now concluded in the High Court however, including orders in respect of costs, remains unclear.

As the matter currently stands, with adverse judgements against Woollahra Council in the Land & Environment Court and the Court of Appeal, cost orders in respect of both Courts are in the State Government's favour. Those orders would have been reversed had Council won on appeal in the High Court.

At the time of preparing this Mayoral Minute, discussions between the High Court Registrar, the Crown Solicitor's Office and Council's legal team are continuing in relation to how best to conclude the High Court proceedings and the terms of any court orders necessary. I have also written to the Minister for Local Government seeking to meet with her and our respective legal representatives in an attempt to resolve the matter as quickly as possible.

As Mayor I have greatly appreciated the support of all my fellow Councillors throughout this battle for Woollahra's future. I will remain forever grateful for the trust and confidence you have given me through previous Council resolutions to make the urgent decisions needed as our legal challenge progressed.

I would also like to formally thank Council staff for their continued commitment to customer service during a long period of uncertainty.

Through this Mayoral Minute I again seek your support as I continue to work with our legal team in the best interests of our community in seeking a final resolution of the matter still before the High Court.

I will keep Councillors informed regarding the progress of these discussions and the outcome of negotiations.

Suspension of Standing Orders

Councillor Wynne

170/17 That Standing Orders be suspended to allow Cr Wynne to advise Council of Patricia Vella PA of the year.

Adopted

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

Cr Wynne advised:

We received an email from our General Manager today informing us that Patricia Vella PA to The Mayor & General Manager received the PA of the year award at the Local Government Association Awards, there was some emails going around. It should be of the decade or even the century. Pat has been with Woollahra Council a very long time and I think that everyone who has come in contact with her knows what an incredible asset she is and she should be on the asset register. She takes on so much, she has to deal with all of us as Councillors which she does very patiently and also provides a wonderful support to staff.

I would like to put on record our sincere congratulations on this very worthy award for her.

The Council noted the information.

Councillor Wynne

171/17 That the Suspension of Standing Orders continue to allow Cr Wynne to advise Council of Crazy Love event.

Adopted

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

Cr Wynne advised:

I recently attended the Crazy Love event at Double Bay Library with American author, blogger, businesswoman and domestic violence survivor Leslie Morgan Steiner. It was truly harrowing to hear her stories and I have been inundated with emails.

I would like to see more people feeling safe and comfortable in actually reporting acts of domestic violence and certainly within the eastern suburbs there is that thought that it doesn't happen here, however it does happen in a slightly different way being by power and control, anything from emotional and financial abuse as well as physical abuse.

Recognising that it does happen in our own back yard is important. The statistics are alarming and the event we had is so extraordinary and I congratulate Woollahra Council on supporting this event and encourage Council to keep it on the agenda.

I would also like to thank the staff members involved in running this event. It was a brilliant event and I would like to thank Woollahra Council for all the work done in conjunction with Jewish Care and the NSW Police force and I thank you for enabling me to attend the event in your absence Madam Mayor.

Mayor Zeltzer advised:

Thank you very much Councillor Wynne, you are a very firm advocate of respectful relationships and against domestic violence. I think we are definitely doing what we can as a community to face up to this social issue. I appreciate you attending the event and taking a very active part in such. Thank you so very much.

The Council noted the information.

Councillor Robertson

- 172/17** That the Suspension of Standing Orders continue to allow Cr Robertson to advise Council of National Tree Day at Lighthouse Reserve.

Adopted

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

Cr Robertson advised:

I would like Council to note the very successful Council event that was held on Sunday 30 July 2017 for National Tree Day at Lighthouse Reserve in Vaucluse this year. Staff informed me that by the end of the day over 1,200 plants had been planted including ground cover, grasses, shrubs and trees with a large amount of the tube stock was from seedling propagated in our very own Council's nursery.

Staff advised me that 110 people registered and attended the event, but there were at least another 40 people who attended and certainly during the hour or so that I spent at the event there were many people engaged at least up to 100 engaged in activities and there was somebody doing a live handling demonstration of their snake which drew alot of attraction amongst the young kids. But really what was heartening for me and every year I have attended this event, is to see the young families that have come along, and that simple act of getting your hands into the earth and planting something that is going to grow into a beautiful shrub or beautiful tree and contribute to the magnificent biodiversity that we have across Woollahra is very educational and something that is very critical for young people. With Council's support of this event, it is no surprise to me that it is well attended and all the staff involved in the event are to be congratulated.

The Mayor advised:

Thank you very much Councillor Robertson. I had the pleasure of attending the event and doing some planting myself, so when I drive past I will certainly check our my plantings to see how they go. I do like the idea of our indigenous vegetation being planted in an area that has coastal conditions and salt spray.

I thought it was a very worthy initiative and certainly our community took it up on a very concerted way, it was good to see so many people at the event.

Cr Robertson further advised:

The staff have also advised me that it has generated a significant degree of interest in our bush care programs and bush care groups one of which works in our area and I am sure they will be keen to maintain the plantings that were put there on the day.

The Mayor further advised:

It is all part of connecting us and I think certainly it is a worthy initiative on just that alone, but there are many more other positive flow ons.

The Council noted the information.**Councillor Marano**

173/17 That the Suspension of Standing Orders continue to allow Cr Marano to advise Council of Staff Long Service Awards.

Adopted**The Mayor ruled a Matter of Urgency and permitted the continuation of the Suspension of Standing Orders.****Cr Marano advised:**

I wanted to report on the Long Service Awards event that I attended with yourself, Councillor Petrie and Councillor Levenston on Thursday 10 August 2017. I have been to this event now three or four years and last year there was a different mood in the room because we were not sure how long we were going to be around as a Council. This year things were very much more celebratory. There were staff who got awards for 5, 10, 15, 20, 25, 30 years and even 35 years and of course our General Manager Gary James has been here for 30 years.

It was a very happy occasion with lovely speeches, happy people and it I was very proud to be here with my fellow Councillors.

Sue O'Connor has also been here at Woollahra for 20 years and with 430 staff at Council we have an incredible number of people working for us. Thank you to Council for putting on the wonderful event.

The Mayor advised:

Thank you Councillor Marano.

While we are on long service awards and it was remiss of me not to mention Councillor Petrie's long service of 26 years, more than a quarter of a century, that is an amazing amount of time devoting such to the community in such a concerted and passionate way. I would have liked to make a comment that it is an exceptional level of service and we acknowledge it Councillor Petrie.

Cr Petrie advised:

Thank you, Madam Mayor.

The Mayor advised:

I would like to formally acknowledge the work done by Patricia Vella, PA to the Mayor and General Manager and to congratulate her on receiving the PA of the Year Award. I felt like we won the trifecta, we have saved the Council, we have an election coming with democratically elected people, and then Patricia Vella receives the PA of the Year Award. I think we have done it all.

Considering Patricia has assisted at three Mayors here tonight in our day to day tasks making us look good, she is our confidant and therefore I would like to formally acknowledge her services over such a long period of time.

The Council noted the information.

Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Monday 7 August 2017 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **CROSS STREET CARPARK REDEVELOPMENT - DRAFT
COMMERCIAL TERMS**
Authors: Stephen Dunshea, Director Corporate Services
Tom O'Hanlon, Director - Technical Services
Approver: Gary James, General Manager
File No: 17/139485
Reason for Report: To recommend the Committee resolve into Closed Session

Note: Councillor Levenston declared a Pecuniary Interest in this Item, given the close proximity of his residence to the Cross Street Carpark. Councillor Levenston left the meeting and did not participate in the debate of vote on this matter.

(Cavanagh/Petrie)

174/17 Resolved:

- A. THAT Council receive and note this further progress report on the status of negotiations with Built/Axiom for the proposed redevelopment of the Cross Street Car Park to incorporate a cinema complex.
- B. THAT Council note the negotiations have resulted in 'In-Principle Commercial Terms' for the proposed redevelopment that include:
 - i. Council retaining ownership of the site (land)
 - ii. Council owning the public carpark stratum (basement)
 - iii. Council owning the cinema stratum leased to Palace Cinemas
 - iv. Council owning the retail/commercial/community use stratum
 - v. A 99-year lease stratum to Built/Axiom for residential apartments and private parking.
- C. THAT Council endorse the 'In-Principle Commercial Terms' for the proposed redevelopment outlined in the letter from Built/Axiom dated 20 June 2017 and presented at **Annexure 1**.
- D. THAT Council note the financial evaluation of Built/Axiom's revised commercial offer to Council and the summary of the Cross Street Car Park Transaction Terms provided by CBRE Pty Ltd in their letters dated 23 May 2017 and 26 June 2017 presented as **Annexures 2 and 3** respectively.
- E. THAT Council agree 'in-principle' to proceed with a Public Private Partnership (PPP) with Built/Axiom for the redevelopment of the Cross Street Car Park in accordance with the 'In-Principle Commercial Terms' presented in Built/Axiom's revised commercial offer and presented as **Annexure 1** to this report.

- F. THAT Council proceed with the preparation of a comprehensive Public Private Partnership submission to be forwarded to the Office of Local Government which will include a detailed project risk assessment.
- G. THAT Council retain the services of Mr Wayne Redman from CBRE Pty Ltd to assist with the preparation of the Public Private Partnership submission.
- H. THAT Council note that in order for the proposed PPP to be formally established, a range of matters need to be progressed and concluded, including relevant planning processes and approvals, review of the PPP in accordance with the Office of Local Government's PPP Guidelines, and preparation and execution of comprehensive legal documents.
- I. THAT the confidential report and annexures remain confidential until contracts for the proposed PPP development are executed or until Council resolves to not proceed with the development.
- J. THAT a public briefing paper be issued following the Council Meeting that provides the community with an update on the proposed redevelopment.

Item No: R2 Recommendation to Council
Subject: **REPORT ON PUBLIC EXHIBITION FOR THE VOLUNTARY PLANNING AGREEMENT - 2 COOPER STREET, PADDINGTON (SCOTTISH HOSPITAL - DILLON STREET RESERVE)**
Author: Paul Fraser, Manager - Open Space & Trees
Approver: Tom O'Hanlon, Director - Technical Services
File No: 17/111762
Reason for Report: To report on the submissions received through the public exhibition of the proposed planning agreement.

(Cavanagh/Petrie)

175/17 Resolved without debate:

- A. That the recommended changes are implemented into the draft Planning Agreement for 2 Cooper Street (Scottish Hospital) in response to submissions received through the public exhibition period.
- B. That the amended draft Planning Agreement be adopted noting the benefits to the public in terms of the increased area of public open space and the improvement of pedestrian access associated with Dillon Street Reserve.

Item No: R3 Recommendation to Council
Subject: **SSROC TENDER FOR THE PROVISION OF LINEMARKING SERVICES FOR A THREE YEAR PERIOD WITH TWO TWELVE MONTH OPTIONS**
Author: Dave Byatt, Purchasing Coordinator
Approvers: Mark Ramsay, Manager - Civil Operations
Tom O'Hanlon, Director - Technical Services
File No: 17/122633
Reason for Report: To recommend acceptance of a tender

(Cavanagh/Petrie)

176/17 Resolved without debate:

That Council enters into a panel agreement with Avante Linemarking Services, Complete Line marking Services, Workforce Road Services Pty Ltd and Guidance Road Management for the provision of linemarking services for a three year period with the option to extend for a further two by twelve month periods.

Item No: R4 Recommendation to Council
Subject: **CAPITAL WORKS PROGRAM STATUS REPORT - JUNE 2017 INCLUDING 2016/17 BUDGET REVOTES & ROLLOVERS**
Author: Trang Banfield, Senior Corporate Accountant
Approvers: Don Johnston, Chief Financial Officer
Tom O'Hanlon, Director - Technical Services
File No: 17/136628
Reason for Report: To provide the Committee with an update on the status of projects in the 2016/17 Capital Works Program and to report on the 2016/17 Budget revotes and rollovers.

(Cavanagh/Petrie)

177/17 Resolved without debate:

- A. That the Quarterly Progress Report – Capital Works Program for June 2017 be received and noted.
- B. That the items identified as “Recommended for Revote” in Annexures 1 and 2 be revoted into the 2017/18 Budget.

Development Control Committee

Items with Recommendations from the Committee Meeting of Monday 7 August 2017 Submitted to the Council for Determination

ITEM No.	R1 Recommendation to Council
FILE No.	DA502/2016
ADDRESS	6 & 8 Queens Avenue Vaucluse
PROPOSAL	Consolidation of 2 allotments, alterations and additions to the existing heritage listed dwelling-house at 6 Queens Ave, the demolition of an existing dwelling-house at 8 Queens Ave and the construction of a new dwelling to form a horizontally attached (at lower ground floor level) dual occupancy development, swimming pool, landscaping & earthworks
REASON FOR REPORT	In accordance with Council's meeting procedures and policy this matter is referred to full Council to allow Council to make a submission to the Sydney Central Planning Panel (SCPP).

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

Note: The Mayor Councillor Zeltzer declared a Significant, Non-Pecuniary Interest in this Item, as she is a Panel member of the Sydney Central Planning Panel (SCPP). Councillor Zeltzer vacated the meeting and did not participate in the debate or vote on this matter. Deputy Mayor, Councillor Susan Wynne assumed the Chair.

(Robertson/Petrie)

178/17 Resolved:

That Council advise the Sydney Central Planning Panel (SCPP), that Development Application No. 502/2016/1 for the consolidation of 2 allotments, alterations and additions to the existing heritage listed dwelling-house at 6 Queens Ave, the demolition of an existing dwelling-house at 8 Queens Ave and the construction of a new dwelling to form a horizontally attached (at lower ground floor level) dual occupancy development, swimming pool, landscaping & earthworks on land at 6 & 8 Queens Avenue Vaucluse, should be refused for the following reasons:

1. Breach of maximum height
2. Excessive excavation in exceedance of maximum volume control and non-compliance with subsurface wall setbacks.
3. Insufficient deep soil landscaping in breach of WRDCP part B3.7 C.1, and in the rear setback per C.4.
4. Non-compliances with WRDCP building envelope controls including: east side boundary and non-articulated length, rear boundary setback, and maximum wall height
5. Non-compliant location of the swimming pool.
6. Breach maximum number of car parking spaces
7. Not in the public interest

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

For the Motion

Against the Motion

Councillor Bennett
 Councillor Cavanagh
 Councillor Levenston
 Councillor Marano
 Councillor O'Regan
 Councillor Petrie
 Councillor Robertson
 Councillor Thomas
 Councillor Wynne

Nil

9/0

ITEM No.	R2 Recommendation to Council
FILE No.	DA491/2016/1
ADDRESS	47 Birriga Road Bellevue Hill
PROPOSAL	Demolition of an existing dual-occupancy and construction of a new residential flat building and strata subdivision
REASON FOR REPORT	In accordance with Council's meeting procedures and policy this matter is referred to full Council due to a substantive change of the Committees recommendation (refusal) to the Officer's recommendation (Approval).

Note: Late correspondence was tabled by George Karavanas, GSA Planning.

**Motion moved by Councillor Bennett
Seconded by Councillor Petrie**

That the Staff recommendation for approval with Conditions listed in Development Control Committee agenda from 7 August 2017 be adopted.

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

That the matter be refused for the following reasons:

1. The substantial non-compliance with the minimum lot size would set an undesirable precedent and would result in adverse amenity impacts.
2. The proposal fails to comply with the following building envelope controls contained within Section B3.2 of the Woollahra Development Control Plan 2015:
 - a. Rear setback.
 - b. Front setback.
 - c. Unarticulated width to the street.
 - d. Unarticulated wall length to the south western and north eastern side boundaries.
3. The proposal would result in an unacceptable sense of enclosure to the adjoining properties.
4. The proposal would result in an unacceptable loss of district views to 8/45 Birriga Road.
5. The proposal would result in an unacceptable loss of privacy to adjoining properties.
6. The proposal represents an overdevelopment of the site.
7. The proposal is not in the public interest

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

(Bennett/Petrie)

179/17 Resolved: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act 1979

THAT Council, as the consent authority, is of the opinion that the written request from the applicant under Clause 4.6 of the Woollahra Local Environmental Plan 2014 to the minimum lot size development standard under Clause 4.1(A) of Woollahra LEP 2014 has adequately addressed the relevant matters and the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard.

AND

THAT Council, as the consent authority, grant development consent to Development Application No. 491/2016/1 for the demolition of an existing dual-occupancy and construction of a new residential flat building and strata subdivision on land at 47 Birriga Road Bellevue Hill, subject to the following conditions:

A. General Conditions

A.1 Conditions

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

Standard Condition: A1

A.2 Definitions

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

Applicant means the applicant for this Consent.

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

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

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

Council means Woollahra Municipal Council

Court means the Land and Environment Court

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

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

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

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

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

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

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

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

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

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

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

Site means the land being developed subject to this consent.

WLEP 1995 means *Woollahra Local Environmental Plan 1995*

WLEP 2014 means *Woollahra Local Environmental Plan 2014*

Work for the purposes of this consent means:

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

Note: Interpretation of Conditions - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.
Standard Condition: A2

A.3 Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” 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)		
757005 M	BASIX Certificate	NSW Department of Planning & Environment	26/10/2016		
DA02 C	Basement Plan	MHN Design Union	20/04/2017		
DA04 C	Ground Floor Plan				
DA09 B	Sections AA and BB				
DA03 A	Lower Ground Floor Plan				
DA05 A	First Floor Plan				
DA06 A	Roof Plan				
DA07 A	North West & South East Elevations				
DA08 A	South West & North East Elevations				
DA10 A	Driveway Section AA				
DA13 A	Waste Management Plan 1				
DA14 A	Waste Management Plan 2				
DA15 A	External Finishes Schedule				
6135-01 (Issue B)	Landscape Plan			Peter Glass & Associates	18/10/2016
Project 16048: C-01 (rev.D)	Stormwater Management Plans			AKY Civil Engineering	26/05/2017
Project 16048: C-02 (rev.E)					
Job 4548	Report on Bulk Excavation, Shoring and Pile Construction	Alba & Associates Consulting Engineers	17/05/2017		
Job 4548: Sk 1/ 3	Structural Concept Drawings		N/A		
Job 4548: Sk 2/ 3					
Job 4548: Sk 3/ 3					
29804Zrpt	Geotechnical Report	JK Geotechnics	10/05/2017		
16569	Traffic report	Varga Traffic Planning	22/05/2017		
Sheet 1 of 3	Draft Strata Plans	Eric Scerri	28/11/2016		
Sheet 2 of 3					
Sheet 3 of 3					
N/A	Arboricultural Impact Assessment	Jacksons Nature Work	26/09/2016		
Attachment 1	Site Waste Minimisation & Management Plan	Meng Min Wong	01/11/2016		

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 February 2012 unless expressly provided otherwise by these conditions at the *owner's* expense.

Note: This condition does not affect the *principal contractor's* or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.
Standard Condition: A8

A.5 Tree Preservation & Approved Landscaping Works

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

a) The following trees shall be retained

- Trees on Private Land

Council Ref No.	Species	Location	Dimension (metres)
6	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Rear garden, as illustrated on the submitted Jacksons Nature Works Annexure B - Tree location Plan.	16 x 8 metres
7	<i>Araucaria heterophylla</i> (Norfolk Island pine)	Rear garden, as illustrated on the submitted Jacksons Nature Works Annexure B - Tree location Plan.	18 x 11 metres

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
1	<i>Ulmus parvifolia</i> (Chinese Elm)	Council nature strip	5 x 6 metres	

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)
2	<i>Grevillea robusta</i> (Silky Oak)	As illustrated on the submitted Jacksons Nature Works Annexure B - Tree location Plan.	9 x 4 metres
3	<i>Syagrus romanzoffiana</i> (Cocos palm)	As illustrated on the submitted Jacksons Nature Works Annexure B - Tree location Plan.	12 x 2 metres
4	<i>Cupressocyparis leylandii</i> (Leyland Cypress)	As illustrated on the submitted Jacksons Nature Works Annexure B - Tree location Plan.	9 x 4 metres
5	<i>Cupressocyparis leylandii</i> (Leyland Cypress)	As illustrated on the submitted Jacksons Nature Works Annexure B - Tree location Plan.	9 x 4 metres

Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.

c) The following trees shall be pruned in accordance with *Australian Standard Pruning of Amenity Trees* (AS 4373) and *Workcover NSW Code of Practice Amenity Tree Industry*, to the minimum extent necessary to provide clearance to the new development:

Council Ref No.	Species	Location	Approved pruning (extent of pruning)
8	<i>Eucalyptus botryoides</i> (Swamp Mahogany)	Eastern boundary of 45 Birriga Road. As illustrated on the submitted Jacksons Nature Works Annexure B - Tree location Plan.	Selectively prune in accordance with Plate 7 of the submitted Jacksons Nature Works Construction Impact Assessment.

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

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

B.1 Construction Certificate required prior to any demolition

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

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

B.2 Identification of Hazardous Material

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

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

Note: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.
Standard Condition: B6

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

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

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

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

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Applicant or Owner fails to submit the Asset condition report required by this condition and damage is occasioned to public assets adjoining the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose
Standard Condition: B7

B.4 Establishment of Tree Protection Zones (TPZ)

Tree Protection Zones shall be established around all trees to be retained and in accordance with Section 4 of the *Australian Standard Protection of Trees on Development Sites* (AS 4970- 2009). Tree protection zones must also comply with the following requirements;

- a) Tree Protection Zone areas

Council Ref No.	Species	Location	Radius from Centre of Trunk (Metres)
1	<i>Ulmus parvifolia</i> (Chinese Elm)	As illustrated on the submitted Jacksons Nature Works Annexure B - Tree location Plan.	2 metres
6	<i>Araucaria heterophylla</i> (Norfolk Island pine)	As illustrated on the submitted Jacksons Nature Works Annexure B - Tree location Plan.	4.7 metres
7	<i>Araucaria heterophylla</i> (Norfolk Island pine)	As illustrated on the submitted Jacksons Nature Works Annexure B - Tree location Plan.	5 metres

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

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

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.

- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in Condition B.2 of this consent.
- e) Establishment of Ground protection
Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in Condition B.2 of this consent. Appropriate ground protection shall be installed under the supervision of the site arborist.
- f) All site personnel and contractors must be made aware of all tree protection requirements associated with these conditions of consent.
- g) The project arborist shall provide written certification of compliance with the above condition.

B.5 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Approved works
6	<i>Araucaria heterophylla</i> (Norfolk Island pine)	<ul style="list-style-type: none"> • Construction of timber paling boundary fences. • Soft landscaping works
7	<i>Araucaria heterophylla</i> (Norfolk Island pine)	<ul style="list-style-type: none"> • Construction of timber paling boundary fences. • Soft Landscaping works

The project arborist shall provide written certification of compliance with the above condition.

B.6 Arborists Documentation and Compliance Checklist

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

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

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

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

Stage of arboricultural inspection	Compliance documentation and photos shall be included
Installation of tree protection zones and fencing.	Compliance with tree protection measures.
Excavation along the line of the proposed Basement within 9.6 metres of Tree 7.	Ensure that to a depth of 1 metre excavation is initially carried out utilising small, non-destructive machinery or hand tools.
Prior to the issue of a Final Occupation Certificate	Supervise the dismantling of tree protection measures

Inspections and compliance documentation shall be made by an arborist with AQF Level 5 qualifications.

Additional site visits shall be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.

B.7 Recording of buildings with little or no heritage significance that are to be demolished

A photographic archival record of the building and landscape elements to be demolished is to be submitted prior to the commencement of demolition work and prior to the issue of a Construction Certificate.

The photographic archival recording is to be submitted in a digital format and is to include the following:

- 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 and directional details of photographs taken.
- b) Coloured photographs of:
 - each elevation,
 - each structure and landscape feature;
 - views to the subject property from each street and laneway or public space.

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 former NSW Department of Planning Heritage Branch.

One digital set is to be submitted to the satisfaction of Council prior to the commencement of demolition work and prior to the issue of a construction certificate.

Note: Refer to the NSW OEH Heritage Branch free publication ‘Photographic Recording of Heritage Items using Film or Digital Capture’ available at:
<http://www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographicrecording2006.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 (Section 80A(1)(g) of the Act)

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

- a) Proposed boundary walls within the specified radius from the trunks of the following trees shall be constructed utilising timber paling/lap and cap fencing and not masonry.

Tree Ref No.	Species	Radius from Trunk (metres)
6	<i>Araucaria heterophylla</i> (Norfolk Island pine)	4.7 metres
7	<i>Araucaria heterophylla</i> (Norfolk Island pine)	9.2 metres
7a	<i>Eucalyptus botryoides</i> (Swamp Mahogany)	3.6 metres
8	<i>Eucalyptus botryoides</i> (Swamp Mahogany)	4.6 metres

- b) A sensor-activated “stop-go” traffic signal system shall be installed at the basement and the street level. The system must give priority to vehicles entering the car lift from the street level in order to minimise the disruption to vehicle and pedestrian flow along the Birriga Road Frontage. Detailed plans showing the locations, height and specifications of the traffic signal system must be prepared by a suitably qualified and experienced traffic engineer.

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 Long Service Levy, Security, Contributions and Fees

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

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986			
Long Service Levy http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm	Contact LSL Corporation or use online calculator	No	
SECURITY under section 80A(6) of the Environmental Planning and Assessment Act 1979			
Property Damage Security Deposit -making good any damage caused to any property of the <i>Council</i>	\$37,520.00	No	T115
Infrastructure Works Bond -completing any public work required in connection with the consent.	\$134,000.00	No	T113
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au			
Development Levy (Section 94A)	\$15,021.00 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under Section 608 of the Local Government Act 1993			
Public Road/Footpath Infrastructure Inspection Fee	\$452.00	No	
Security Administration Fee	\$180.00	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$187,173.00 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

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

How must the payments be made?

Payments must be made by:

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

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

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

How will the section 94A levy be indexed?

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

Do you need HELP indexing the levy?

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

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

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

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

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

- The guarantee is by an Australian bank for the amount of the total outstanding contribution;
- The bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable];

- The bank agrees to pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent;
- The bank guarantee is lodged with the Council prior to the issue of the construction certificate; and
- The bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

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

Standard Condition: C5

C.3 BASIX commitments

The *applicant* must submit to the *Certifying Authority* BASIX Certificate No. 757005M with any application for a *Construction Certificate*.

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

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

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

Standard Condition: C7

C.4 Road and Public Domain Works

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

- a) Extension of Council's existing drainage line for a distance of approximately 82m; the proposed development shall drain to a newly constructed kerb inlet pit fronting the property, extending to a second newly constructed kerb inlet pit approximately fronting No. 53 Birriga Road and connecting to Council's existing stormwater kerb inlet pit fronting No. 59-61 Birriga Road. Note: the two new kerb inlet pits shall be a standard Council double grated gully pit with 1.8m kerb lintel over the new line where it intersects with the private stormwater line. A capped pipe stub is provided to enable future extension of the line upstream. All stormwater pipes within the Council's road reserve shall be a minimum Class 2 and 375mm diameter RRJ.
- b) Full width vehicular crossing having a width of 5.5m at property boundary and perpendicular to the road carriageway with no additional splays other than the layback wings in accordance with Council's standard driveway drawing RF2_D. The crossing shall be no closer than 1m from the existing Telstra pit and 0.5m from kerb inlet pits.
- c) A design longitudinal surface profile for the proposed driveway must be submitted for assessment.
- d) Removal of all driveway crossings and kerb laybacks which will be no longer required.

- e) Reinstatement of footpath, kerb and gutter to match existing.
- f) Where a grass verge exists, the balance of the area between the footpath and the kerb 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 Couch turf.

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 *Section K. Advising*s of this Consent titled *Roads Act Application*. Standard Condition: C13

C.5 Provision for Energy Supplies

The applicant must provide to the *Certifying Authority* a letter from Energy Australia setting out Energy Australia's requirements relative to the provision of electricity/gas supply to the development.

Any required substation must be located within the boundaries of the site.

Where an electricity substation is required within the site but no provision has been made to place it within the building and such substation has not been detailed upon the approved development consent plans a section 96 application is required to be submitted to Council. Council will assess the proposed location of the required substation.

The *Construction Certificate* plans and specifications, required to be submitted pursuant to clause 139 of the *Regulation*, must detail provisions to meet the requirements of Energy Australia.

Where the substation is required the *Construction Certificate* plans and specifications must provide:

- a) A set back not less than 3m from the road boundary and dense landscaping of *local native plants* to screen the substation from view within the streetscape,
- b) A set back not less than 3m from any other site boundary (fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility pursuant to clause 3.2.4 of AS2890.1-1993(See: Figures 3.2 and 3.3),
- c) A set back to and not within the drip line of any existing tree required to be retained,
- d) A setback not less than the 10m from any NSW Fire Brigade booster connection as prescribed by clause 5.6.3(d)(iii) of AS 2419.1-1994 or be separated from any booster connections by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2 m each side of and 3 m above the upper hose connections in the booster assembly pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994, and
- e) The owner shall dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established, if required. 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 must not intrude onto the public road reserve.

- Note:** If the substation is not located within the building its location, screening vegetation, all screen walls or fire separating walls must have been approved by the grant of development consent or amended development consent prior to the issue of any *Construction Certificate* for those works. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the *Certifying Authority* prior to issue of the *Construction Certificate*. The *Certifying Authority* must be satisfied that the requirements of energy authority have been met prior to issue of the *Construction Certificate*.
- Note:** This condition has been imposed because the application fails to provide sufficient detail (either by plans or by the Statement of Environmental Effects) demonstrating that provision has been made to Energy Australia's satisfaction for the provision of electricity supply to the building. Nevertheless, Council has no reason to believe that provision cannot be reasonably made for electricity to service the development.
- Note:** Where it is proposed to shield any booster connection or any building from any substation pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994 or by fire resisting construction under the *BCA* respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent pursuant to clause 145 of the *Regulation*. The Applicant must lodge with Council details for any such construction pursuant to section 96 of the *Act* to allow assessment under section 79C of the *Act*.
- Note:** Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard AS/NZS 2890 (Set)-2004 Parking Facilities Set whether such driveways service the site or any adjoining land.
Standard Condition: C21

C.6 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.7 Structural Adequacy of Existing Supporting Structures

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

- Note:** This condition is imposed to ensure that the existing structure is able to support the additional loads proposed.
Standard Condition: C35

C.8 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.9 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:
 - Will detect any settlement associated with temporary and permanent works and structures;
 - Will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like);
 - Will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity);
 - Will detect groundwater changes calibrated against natural groundwater variations;
 - Details the location and type of monitoring systems to be utilised;
 - Details the pre-set acceptable limits for peak particle velocity and ground water fluctuations;
 - Details recommended hold points to allow for the inspection and certification of geotechnical and hydro-geological measures by the professional engineer; and;
 - Details a contingency plan.

Standard Condition: C40

C.10 Ground Anchors

This development consent does NOT give approval to works or structures over, on or under public roads or footpaths excluding minor works subject to separate Road Opening Permit.

The use of permanent ground anchors under Council land is not permitted.

Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.

If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the *Roads Act* 1993. Application forms and Council's "Rock Anchor Policy" are available from Council's web-site <http://www.woollahra.nsw.gov.au>. Approval may be granted subject to conditions of consent. Four weeks should be allowed for assessment.

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: 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.

Standard Condition: C41

C.11 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.

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

In addition;

- a) All proposed car parking spaces including the car lift shall have clear internal dimensions of minimum 5.4m long x 2.4m wide with an additional 300mm on each side when adjacent to an obstruction higher than 150mm in accordance with AS2890.1.
- b) Where the vehicular entrance is proposed in conjunction with a fence of over 1.2m high, a 2x2m splay or its equivalent shall be provided on either side of the entrance to ensure driveway and pedestrian vision in accordance with Woollahra DCP Chapter E1 – Parking and Access.

- c) A sensor-activated “stop-go” traffic signal system shall be installed at the basement and the street level. The system must give priority to vehicles entering the car lift from the street level in order to minimise the disruption to vehicle and pedestrian flow along the Birriga Road Frontage. Detailed plans showing the locations, height and specifications of the traffic signal system must be prepared by a suitably qualified and experienced traffic engineer.

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

Standard Condition: C45

C.12 Stormwater management plan

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 the the Stormwater Disposal Concept Plan, Project No. 16048, Drawing No. C-01 Rev D and C-02 Rev E, prepared by AKY Civil Engineering, dated 26/05/2017, other than amended by this and other conditions;
- b) The rainwater tank shall be a holding tank for the collection of roof and surface water and partitioned into two separate chambers. The first holding chamber shall be used for outdoor water uses only. The overflow from the first chamber shall discharge through a weir into the second chamber functioning as an OSD system and discharging to the proposed absorption trench.
- c) All surface water of impervious area falling through the back of the property shall be collected and drained to the retention/OSD tank.
- d) The retention/OSD tank shall include additional access points for inspection and maintenance where applicable.
- e) The entire bypass area shall be pervious.
- f) The front portion of the property draining to the street shall first drain to a junction pit within the property boundary before discharging onto Council’s road reserve.
- g) The discharge of stormwater, by direct connection to Birriga Road through the extension of Council’s existing drainage line for a distance of approximately 82m; the proposed development shall drain to a newly constructed kerb inlet pit fronting the property, extending to a second newly constructed kerb inlet pit approximately fronting No. 53 Birriga Road and connecting to the existing Council’s stormwater kerb inlet pit fronting No. 59-61 Birriga Road. Note: the two new kerb inlet pits shall be a standard Council double grated gully pit with 1.8m kerb lintel over the new line where it intersects with the private stormwater line. A capped pipe stub is provided to enable future extension of the line upstream. All stormwater pipes within the Council’s road reserve shall be a minimum Class 2 and 375mm diameter RRJ. A S138 approval shall be obtained from Council.
- h) Compliance the objectives and performance requirements of the BCA;
- i) Any rainwater tank (See Note below) required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*, and
- j) General compliance with the Council’s Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management, and
- k) On-site Stormwater Detention (“OSD”) system.

OSD Requirements

The minimum (OSD) Site Storage Requirements (“SSR”) and the Peak Site Discharge (“PSD”) from the site must be in accordance with the following minimum storage/discharge relationships based upon a 1000m² site area:

Average Recurrence Interval	PSD (L/s)	Minimum Site Storage Requirement (SSR) m ³
2 year	23.5 L/s	4m ³
100 year	34 L/s	20m ³ – Dwelling House with Rain Gardens
100 year	34 L/s	25m ³ – Dwelling House without Rain Gardens

Note: All values based on per 1000m² site area (interpolate to site area).

The *Stormwater Management Plan* must also 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:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location of On-site Stormwater Detention tank.
- c) All invert levels reduced to Australian Height Datum (AHD),
- d) Location and dimensions of all drainage pits,
- e) Point and method of connection to Councils drainage infrastructure, and
- f) Overland flow paths over impervious areas.

On-site Stormwater Detention (OSD)/Retention tank details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed detention storage,
- c) Diameter of the outlet to the proposed detention storage basin,
- d) Plans, elevations and sections showing the detention storage basin invert level, centre-line level of outlet, top water level, finished surface level and adjacent structures,
- e) Details of access and maintenance facilities,
- f) Construction and structural details of all tanks and pits and/or manufacturer’s specifications for proprietary products,
- g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the on-site detention system,
- h) Non-removable fixing details for orifice plates where used,

Copies of certificates of title

- a) Showing the creation of private easements to drain water by gravity, if required.

Subsoil Drainage

- a) Subsoil drainage details
- b) Clean out points
- c) Discharge point.

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

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

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

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

Standard Condition: C.51

C.13 Non-gravity drainage systems

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 the non-gravity drainage systems (charged, siphon, pump/sump systems) being designed in accordance with Section 6.2.4 – "Non-gravity drainage systems" of Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Note: This DCP is available from Council's website www.woollahra.nsw.gov.au .

Standard Condition: C.52

C.14 Stormwater infiltration systems

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

- a) The soil permeability coefficient and estimate of mean water table level using field observations,
- b) How the system will disperse a 1 in 20 years average recurrence interval storm,
- c) How the system will cater for a 1 in 100 years average recurrence interval storm event by overland flow paths, General compliance with Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Standard Condition: C.53

C.15 Flood protection

The *Construction Certificate* plans and specifications, required by Clause 139 of the *Regulation*, must include a Flood Risk Management Plan on the basis of a 1:100 year flood and including:

- a) The finished carpark entry threshold is to be a minimum of 54.810m AHD.
- b) The finished entry foyer level is to be a minimum of 54.460m AHD.
- c) The western side fire exit shall have a step down to the adjacent side overland flow path of a minimum of 100mm.
- d) A flood risk management plan is to be permanently displayed in an area frequented by the residents (laundry).

Note: The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1 – 2004, Part 1 (Off-street car parking). The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.
Standard Condition C.54

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 the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will 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. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

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).
- Standard Condition: C62

C.17 Tree Management Plan

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:
 - shaded green where required to be retained and protected
 - shaded red where authorised to be removed
 - shaded yellow where required to be transplanted
 - shaded blue where required to be pruned
- b) References to applicable tree management plan, arborists report, transplant method statement or bush regeneration management plan.

This plan shall be kept on site until the issue of the final occupation certificate.

C.18 Boundary walls in the vicinity of trees

Proposed boundary walls within the specified radius from the trunks of the following trees shall be constructed utilising timber paling/lap and cap fencing and not masonry.

Council Ref No.	Species	Radius from Trunk (metres)
6	<i>Araucaria heterophylla</i> (Norfolk Island pine)	4.7 metres
7	<i>Araucaria heterophylla</i> (Norfolk Island pine)	9.2 metres
7a	<i>Eucalyptus botryoides</i> (Swamp Mahogany)	3.6 metres
8	<i>Eucalyptus botryoides</i> (Swamp Mahogany)	4.6 metres

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

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

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

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

This condition does not apply:

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

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

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

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

D.2 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)

- a) 45 Birriga Road, Bellevue Hill.
- b) 49 Birriga Road, Bellevue Hill.

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

Note: Also refer to the Dilapidation Report Advising for more information regarding this condition
Standard Condition: D4

D.3 Dilapidation Reports for Public Infrastructure

To clarify the existing state of public infrastructure prior to the commencement of any development (including prior to any demolition), the *Principal Contractor* must submit a dilapidation report, prepared by a *professional engineer*, on Council's infrastructure within and near the development site.

The dilapidation report must be submitted to Council prior to the commencement of any work and include:

- a) Photographs showing any existing damage to the road pavement fronting the site,
- b) Photographs showing any existing damage to the kerb and gutter fronting the site,
- c) Photographs showing any existing damage to the footway including footpath pavement fronting the site,
- d) Photographs showing any existing damage to retaining walls within the footway or road, and
- e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site and
- f) The full name and signature of the professional engineer.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure prior to the commencement of any work. If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Principal Contractor fails to submit the dilapidation report required by this condition and damage is occasioned to public assets adjoining the site Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose.
Standard Condition: D5

D.4 Adjoining buildings founded on loose foundation materials

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

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*. Standard Condition: D6

D.5 Construction Management Plan

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

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

- a) Detail the scope of the works to be completed including details of the various stages, e.g. Demolition, Excavation, Construction etc. and the duration of each stage.
- b) Identify local traffic routes to be used by construction vehicles.
- c) Identify ways to manage construction works to address impacts on local traffic routes.
- d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments.
- e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- f) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access or reversing manoeuvres onto a public road and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.
- g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- h) Provide for the standing of vehicles during construction.
- i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.
- l) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.

- m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
- n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: Oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T).
- o) Show the location of any proposed excavation and estimated volumes.
- p) When excavation works are to be undertaken on school days, all vehicular movements associated with this work shall only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.
- q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).

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

D.6 Works (Construction) Zone – Approval & Implementation

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

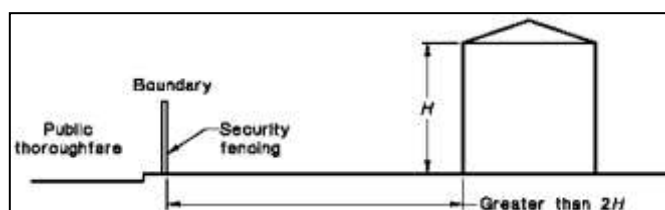
The *principal contractor* must pay all fees associated with the application and occupation and use of the road as a works zone. All works zone signs must have been erected by Council to permit enforcement of the works zone by Rangers and Police before commencement of any work. Signs are not erected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

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

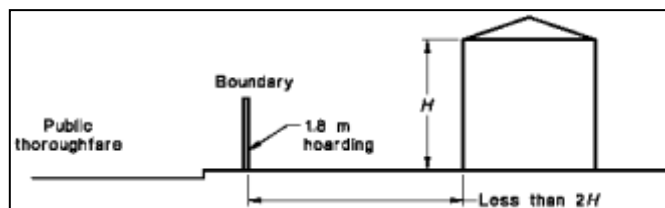
Note: The enforcement of the works zone is at the discretion of Council’s Rangers and the NSW Police Service. The principal contractor must report any breach of the works zone to either Council or the NSW Police Service.
Standard Condition: D10

D.7 Security Fencing, Hoarding and Overhead Protection

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



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

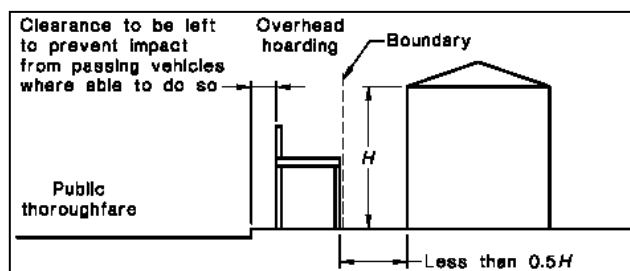


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either:

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

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

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



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

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

This can be downloaded from:

http://www.workcover.nsw.gov.au/formspublications/publications/Pages/WC00017_OverheadProtectiveStructuresCodeofPracti.aspx

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

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

D.8 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.9 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.10 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.

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

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

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

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

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

- Note:** The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 82A(2) of the *Act* (including the need for a *Construction Certificate*) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.
- Note:** *Construction Certificate* Application, PCA Service Agreement and *Notice of Commencement* forms can be downloaded from Council's website www.woollahra.nsw.gov.au.
- Note:** It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 81A(2) of the *Act*.
Standard Condition: D15

D.12 Notification of Home Building Act 1989 requirements

- a) For the purposes of section 80A (11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.
- b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - In the case of work for which a *principal contractor* is required to be appointed:
 - the name and licence number of the principal contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that *Act*,
 - In the case of work to be done by an owner-builder:
 - the name of the owner-builder, and
 - if the owner-builder is required to hold an owner-builder permit under that *Act*, the number of the owner-builder permit.
- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the *Act*, to comply with the technical provisions of the State's building laws.
Standard Condition: D17

E. Conditions which must be satisfied during any development work

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

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

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

This condition does not apply:

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

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

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: E1

E.2 Compliance with Australian Standard for Demolition

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

Standard Condition: E2

E.3 Compliance with Construction Management Plan

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

Note: Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.
Standard Condition: E3

E.4 Requirement to notify about new evidence

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

Standard Condition: E4

E.5 Critical Stage Inspections

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

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

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

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

Standard Condition: E5

E.6 Hours of Work –Amenity of the neighbourhood

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

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

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

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

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

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

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

Note: see http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf

Standard Condition: E6

E.7 Public Footpaths – Safety, Access and Maintenance

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

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any *work*.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect heritage listed 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.8 Maintenance of Environmental Controls

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

- a) Erosion and sediment controls,
- b) Dust controls,
- c) Dewatering discharges,
- d) Noise controls;
- e) Vibration monitoring and controls;
- f) Ablutions;

Note: See http://www.epa.nsw.gov.au/small_business/builders.htm for additional information.
Standard Condition: E11

E.9 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.
Standard Condition: E12

E.10 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.11 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.

Standard Condition: E14

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: 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.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.

Standard Condition: E17

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

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

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

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

Note: This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that buildings are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.
Standard Condition: E20

E.16 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.17 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.18 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 or obtained from Council’s office.

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

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

Standard Condition: E23

E.19 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works Road works and work within the Road and Footway

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

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

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

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

Standard Condition: E24

E.20 Site waste minimisation and management – Demolition

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

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

When implementing the SWMMP the applicant must ensure:

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

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

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

Standard Condition: E31

E.21 Site waste minimisation and management – Construction

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

- a) The provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work
- b) Arrange for the delivery of materials so that materials are delivered ‘as needed’ to prevent the degradation of materials through weathering and moisture damage
- c) Consider organising to return excess materials to the supplier or manufacturer
- d) Allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation)
- e) Clearly ‘signpost’ the purpose and content of the storage areas
- f) Arrange contractors for the transport, processing and disposal of waste and recycling. Ensure that all contractors are aware of the legal requirements for disposing of waste.
- g) Promote separate collection bins or areas for the storage of residual waste
- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter
- i) Minimise site disturbance and limit unnecessary excavation
- j) Ensure that all waste is transported to a place that can lawfully be used as a waste facility
- k) Retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, Department of Environment and Climate Change (DECC) or WorkCover NSW

Standard Condition: E32

E.22 Asbestos Removal

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

- a) Be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (restricted) Asbestos License,
- b) Be carried out in accordance with National Occupational Health and Safety Commission (NOHSC): "*Code of Practice for the Safe Removal of Asbestos*",
- c) No asbestos products may be reused on the site
- d) No asbestos laden skip or bins shall be left in any public place

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

Standard Condition: E39

E.23 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW DECC *Waste Classification Guidelines, Part 1: Classifying Waste* (April 2008).

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

E.24 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with **Condition E.23** above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

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

E.25 Asbestos Removal Signage

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

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

E.26 Notification of Asbestos Removal

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

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

E.27 Tree Preservation

All persons must comply with Council's Development Control Plan (DCP) 2015, Tree Management Chapter E3 other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

General Protection Requirements

- a) There shall be no excavation or work within a Tree Protection Zone (TPZ). The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.

- b) Excavation must cease where tree roots with a diameter exceeding 30mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- 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 arborist. The arborist is to supply a detailed report to the appointed certifier.

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.28 Hand excavation within tree root zones

Excavation undertaken within the specified radius from the trunks of the following trees shall be hand dug.

Council Ref No.	Species	Radius from Trunk (metres)
6	<i>Araucaria heterophylla</i> (Norfolk Island pine)	4.7 metres
7	<i>Araucaria heterophylla</i> (Norfolk Island pine)	9.2 metres
7a	<i>Eucalyptus botryoides</i> (Swamp Mahogany)	3.6 metres
8	<i>Eucalyptus botryoides</i> (Swamp Mahogany)	4.6 metres

Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or in excess of 30mm shall not be severed or damaged unless approved in writing by the project arborist.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the perimeter line is completed. Exposed roots to be retained shall be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

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).

The project arborist shall document compliance with the above condition.

E.29 Boundary fences in the vicinity of trees

Boundary fences within the specified radius from the trunks of the following trees shall be constructed utilising a timber paling/lap and cap fencing design and not masonry.

To allow for future increases in trunk diameter a minimum separation of 100 mm shall exist between the trunk of any tree and the fence.

Council Ref No.	Species	Radius from Trunk (metres)
6	<i>Araucaria heterophylla</i> (Norfolk Island pine)	4.7 metres
7	<i>Araucaria heterophylla</i> (Norfolk Island pine)	9.2 metres
7a	<i>Eucalyptus botryoides</i> (Swamp Mahogany)	3.6 metres
8	<i>Eucalyptus botryoides</i> (Swamp Mahogany)	4.6 metres

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 the *BCA* confirming that the *works*, as executed and as detailed, comply with the requirement of this consent, the *Act*, the *Regulations*, any relevant *construction certificate*, the *BCA* and relevant *Australian Standards*.

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

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

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

Note: The *PCA* may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, *Development Standards*, *BCA*, and relevant *Australian 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 Commissioning and Certification of Public Infrastructure Works

The *principal contractor* or *owner builder* must submit, to the satisfaction of Woollahra Municipal Council, certification from a *professional engineer* that all public infrastructure works have been executed in compliance with this consent and with Council’s *Specification for Roadworks, Drainage and Miscellaneous Works* dated February 2012.

The certification must be supported by closed circuit television / video inspection provided on DVD of all stormwater drainage together with Works-As-Executed engineering plans and a survey report detailing all finished reduced levels.

Standard Condition F9

F.4 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.

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

Nil.

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

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

All BASIX commitments must be effected in accordance with the BASIX Certificate No.A757005M.

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

Standard Condition: H7

H.2 Removal of Ancillary Works and Structures

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

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

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

Standard Condition: H12

H.3 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in compliance with Council's "Specification for Roadworks, Drainage and Miscellaneous Works" dated February 2012 unless expressly provided otherwise by these conditions at the *principal contractor's* or *owner's* expense:

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

Note: Security held by Council pursuant to section 80A(6) of the Act will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the *Final Occupation Certificate* to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.
Standard Condition: H13

H.4 Dilapidation Report for public infrastructure works

The *Principal Contractor* must submit a follow up dilapidation report, prepared by a *professional engineer*, on Council's infrastructure within and near the development site to Council upon completion of the work.

The Final Occupation Certificate must not be issued until Council's Civil Works Engineer is satisfied that the works have been satisfactorily completed and the PCA has been provided with correspondence from Council to this effect.

The dilapidation report must include:

- a) Photographs showing any existing damage to the road pavement fronting the site;
- b) Photographs showing any existing damage to the kerb and gutter fronting the site;
- c) Photographs showing any existing damage to the footway including footpath pavement fronting the site;
- d) Photographs showing any existing damage to retaining walls within the footway or road;
- e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- f) The full name and signature of the professional engineer.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure. If the required report is not submitted then Council will assume any damage to any infrastructure in the immediate vicinity of the site was caused by the principle contractor and owner carrying out work under this consent.

Note: If the Principal Contractor fails to submit the dilapidation report required by this condition and damage is occasioned to public assets adjoining the site Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose.
Standard Condition: H14

H.5 Positive Covenant & Works-As-Executed certification of stormwater systems

On completion of construction work, stormwater drainage works are to be certified by a *professional engineer* with Works-As-Executed drawings supplied to the PCA detailing:

- a) Compliance with conditions of development consent relating to stormwater;
- b) The structural adequacy of the On-site Stormwater Detention system (OSD), Stormwater retention tank and Absorption system;
- c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
- d) Pipe invert levels and surface levels to Australian Height Datum;
- e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.
- f) A positive covenant pursuant to Section 88E of the *Conveyancing Act* 1919 must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the On-site Stormwater Detention system/Stormwater Retention tank and/or absorption trenches, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered at the Land and Property Information.

Note: The required wording of the Instrument can be downloaded from Council's web site www.woollahra.nsw.gov.au. The PCA must supply a copy of the WAE Plans to Council together with the *Final Occupation Certificate*.

Note: The *Final Occupation Certificate* must not be issued until this condition has been satisfied.
Standard Condition: H20

H.6 Landscaping

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 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.

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

I.1 Maintenance of BASIX commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No.A757005M.

Note: This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.
Standard Condition: I24

I.2 On-going maintenance of the on-site-detention system

The Owner(s) must in accordance with this condition and any positive covenant:

- a) Permit stormwater to be temporarily detained by the system;
- b) Keep the system clean and free of silt rubbish and debris;
- c) If the car park is used as a detention basin, a weather resistant sign must be maintained in a prominent position in the car park warning residents that periodic inundation of the car park may occur during heavy rain;
- d) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by the Council;
- e) Carry out the matters referred to in paragraphs (b) and (d) at the Owners expense;
- f) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- g) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- h) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice;
- i) Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations;
- j) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the system and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition.

Note: This condition has been imposed to ensure that owners are aware of require maintenance requirements for their stormwater systems.

Note: This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant. Standard Condition: I29

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 luminare 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.

Note: 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
Standard Condition: I49

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. For assessment purposes the background noise level is the L_{A90, 15 minute} level measured by a sound level meter.

Note: 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) 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: I59

J. Miscellaneous Conditions

Nil.

K. Advisings

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

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

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

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

Warnings as to potential maximum penalties

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

Warning as to enforcement and legal costs

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

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

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

<http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the

Attorney General's 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.

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 Builder's Licences and Owner Builders Permits

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

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

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

Standard Condition: K5

K.4 Building Standards - Guide to Standards and Tolerances

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

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

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

The Guide can be down loaded from:

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

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

Standard Condition: K6

K.5 Workcover requirements

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

Note: Further information can be obtained from Workcover NSW's website:

<http://www.workcover.nsw.gov.au/Industry/Construction/default.htm> or through their head office:

Location: Workcover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

Standard Condition: K7

K.6 Dividing Fences

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

Note: Further information can be obtained from the NSW Department of Lands:

<http://www.lands.nsw.gov.au/LandManagement/Dividing+Fences.htm>. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Over 85% of mediations result in an agreement being reached.

Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1800 671 964 or at <http://www.cjc.nsw.gov.au/>.

Standard Advising: K10

K.7 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr M Moratelli, Assessment Officer, on (02) 9391 7165.

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.8 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/_data/assets/pdf_file/0004/76405/Refund_of_Security_Form.pdf
Standard Condition: K15

K.9 Recycling of Demolition and Building Material

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

Standard Condition: K17

K.10 Owner Builders

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

Standard Condition: K18

K.11 Pruning or Removing a Tree Growing on Private Property

Woollahra Municipal Council's Development Control Plan (DCP) 2015, Tree Management Chapter E3 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 DCP from Council's website www.woollahra.nsw.gov.au or you may contact Council on 9391-7000 for further advice.

Standard Condition: K19

K.12 Dilapidation Report

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 PCA 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.

Standard Advising: K23

K.13 Roads Act Application

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Standard Advising: K24

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

For the Motion

Councillor Bennett
Councillor Cavanagh
Councillor Levenston
Councillor O'Regan
Councillor Petrie
Councillor Thomas
Councillor Wynne
Councillor Zeltzer

Against the Motion

Councillor Elsing
Councillor Marano
Councillor Robertson

8/3

ITEM No.	R3 Recommendation to Council
FILE No.	DA67/2017/1
ADDRESS	37 Bundarra Road Bellevue Hill
PROPOSAL	Subdivision to create two allotments
REASON FOR REPORT	In accordance with Council's meeting procedures and policy this matter is referred to full Council due to a substantive change of the Committees recommendation (refusal) to the Officer's recommendation (Approval).

Motion moved by Councillor Bennett
Seconded by Councillor O'Regan

That the Staff recommendation for approval with Conditions listed in Development Control Committee agenda from 7 August 2017 be adopted.

Amendment moved by Councillor Robertson
Seconded by Councillor Elsing

That the matter be refused for the following reasons:

1. Non-compliance with minimum lot size for subdivision, as a development standard.
2. Ineffective resolution of stormwater drainage.
3. Not in the public interest.

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

(Bennett/O'Regan)

180/17 Resolved:

THAT Council, as the consent authority, is of the opinion that the written request from the applicant under Part 4.6 of the Woollahra Local Environmental Plan 2014 to the minimum subdivision lot size development standard under Clause 4.1 of Woollahra LEP 2014 has adequately addressed the relevant matters and the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard.

AND

THAT Council, as the consent authority, grant development consent to Development Application No. 67/2017/1 for the subdivision to create two allotments on land at 37 Bundarra Road Bellevue Hill, subject to the following conditions:

A. General Conditions

A.1 Deferred Commencement - (s80(3) of the Act, cl.95 of the Regulation)

Development consent is granted subject that this consent is not to operate until the applicant satisfies the Council, in accordance with the *Regulations*, as to all matters specified in this condition:

Option 1

1. Documentary evidence by way of title documents demonstrating that the subject site benefits from an interallotment drainage easement over the downstream property of No. 38 Bunyula Road shall be submitted to Council. The title documents shall include both the subject site and the downstream site which is burdened by this interallotment drainage easement.
2. Detailed engineering drawings showing the design of the interallotment drainage system shall be submitted to Council with the following requirements:
 - a) Design showing that the interallotment pipelines will have adequate capacity to collect and convey the 1 in 100yr ARI uncontrolled runoff from the development site;
 - b) Plan view of interallotment system to scale (1:100) showing dimensions, location and reduced/inverted levels of all pits, grates, pipe inverts, flushing facilities and exact point of discharge;
 - c) Longitudinal section (1:100) showing existing ground levels, proposed pipe invert levels, grades, flow capacities and the HGL;
 - d) Full supporting calculations of the contributing catchment and supporting pipe sizing information shall be included;
 - e) Surrounding survey details including all trees within seven (7) metres of the proposed interallotment drainage system;
 - f) Provision of a drainage pit (min. 450x450) must be provided within the easement at each proposed allotment prior to connecting to Council's street drainage system.
3. Detailed engineering drawings for the following infrastructure works within the road reserve in Bunyula Road to Council shall be submitted to Council approval under Section 138 of Roads Act 1993:
 - a) The proposed interallotment drainage pipeline shall be connected to a new kerb inlet pit located within the frontage of No. 38 Bunyula Road. The new kerb inlet pit with a 1.8m precast lintel shall be located at least 0.5m from any existing vehicular crossing and be constructed in accordance with Council's Standard Drawing DR1 and Specification.
 - b) The existing Council's in-ground system in Bunyula Road shall be extended from the existing kerb inlet pit to the new kerb inlet pit by using minimum Class 4, 375mm RRJ reinforced concrete pipes (RCP) in accordance with Council's Specification and AS3725. Detailed design including longitudinal section of the proposed 375mm RCP shall be prepared by a suitably qualified civil engineer. Trench details shall be included in the design drawings to comply with Council's Specification and AS3725.
 - c) The developer shall be responsible for carrying out all service investigations to allow a gravity connection and all construction works. Suitable traffic control plans prepared by a RMS' accredited person shall be submitted with the application.
 - d) A bond of \$20,000 shall be lodged with Council as security to ensure the satisfactory completion of the infrastructure works. The cash deposit or bank guarantee must be the original unconditional bank guarantee with no expiry date.

4. The required inter-allotment drainage system shall be constructed, surveyed and certified upon completion. The designing engineer or equivalent professional engineer shall supervise the works. All damages due to the construction process shall be fully and satisfactorily restored at the full cost to the applicant and to the satisfaction of Council's Engineers. At the completion of the inter-allotment works the following must be submitted to Council for approval:
 - a) Certification from the supervising engineer that the as-constructed works comply with the approved inter-allotment design documentation;
 - b) A full works-as-executed drawing, prepared by a registered surveyor, of the as-built inter-allotment drainage line including the Council's pipeline under Bunyula Road (dimensions, grades, materials, invert levels) highlighting in red on the approved construction drawing;
 - c) Certification from the surveyor that all inter-allotment drainage structures are wholly contained within the registered drainage easement.

5. A qualified practitioner shall undertake a closed circuit television (CCTV) inspection and then report on the condition of the as-built Council drainage pipelines within the road reserve in Bunyula Road after the completion of all works. The camera and its operation shall comply with the following:
 - The internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner.
 - The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints.
 - Distance from the manholes shall be accurately measured and displayed on the video.
 - All pipe joints and defects are to be inspected by stopping movement and panning the camera to fully inspect the joint and/or defect.
 - The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipelines shall be submitted to Council. Any defects identified from the CCTV and report shall be rectified by the applicant or the applicant's contractors to the satisfaction of Council's Engineers.

OR

Option 2

1. Detailed design drawings prepared by a qualified and experienced civil engineer for the proposed drainage upgrading works within the Council's drainage easement shall be submitted to Council for approval under Section 68 of Local Government Act 1993. The detailed design shall address the following:
 - a) The existing Council's stormwater drainage pipelines shall be upgrading to a 300mm diameter DWV starting from the subject site to the existing downstream drainage pit in No. 27 Bundarra Road;
 - b) Plan view of inter-allotment system to scale (1:100) showing dimensions, location and reduced/inverted levels of all pits and pipes;
 - c) Longitudinal section (scale 1:100) showing both existing and proposed ground levels, proposed pipe and pit invert levels, grades, flow capacities and the HGL;

- d) Surrounding survey details including all trees within seven (7) metres of the proposed inter-allotment drainage system;
 - e) Provision of a drainage pit must be provided where there is a change of direction for the proposed pipelines.
2. A copy of the letter advising the affected residents together with a copy of the construction management plan (CMP)/safe work method (SWM) statement for the proposed upgrading works shall be submitted to Council.
 3. The required stormwater drainage system shall be constructed, surveyed and certified upon *completion*. Council's Engineer shall supervise the works prior to any backfilling. All damages due to the construction process shall be fully and satisfactorily restored at the full cost to the applicant and to the satisfaction of Council's Engineers. At the completion of the drainage upgrading works, the following must be submitted to Council for approval:
 - a) A full works-as-executed drawing, prepared by a registered surveyor, of the as-built upgrading drainage lines (dimensions, grades, materials, invert levels) highlighting in red on the approved construction drawing;
 - b) Certification from the surveyor that all drainage structures are wholly contained within the Council's drainage easement.
 3. A qualified practitioner shall undertake a closed circuit television (CCTV) inspection and then report *on* the condition of the entire as-built Council drainage pipelines after the completion of all works. The camera and its operation shall comply with the following:
 - The internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner.
 - The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints.
 - Distance from the manholes shall be accurately measured and displayed on the video.
 - All pipe joints and defects are to be inspected by stopping movement and panning the camera to fully inspect the joint and/or defect.
 - The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipelines shall be submitted to Council. Any defects identified from the CCTV and report shall be rectified by the applicant or the applicant's contractors to the satisfaction of Council's Engineers.
 5. *Written documentation from all affected residents confirming that the disturbed surfaces have been restored as practicable to its original condition.*
 6. A bond of \$15,000 shall be lodged with Council as security to ensure the satisfactory completion of the drainage upgrading works. The cash deposit or bank guarantee must be the original *unconditional* bank guarantee with no expiry date.

Period within which evidence must be produced

The applicant must produce evidence to Council sufficient enough to enable it to be satisfied as to those matters above within 365 days (1 year) of the date of determination.

Clause 95(4) of the *Regulation*:

*“The applicant may produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters and, if the consent authority has specified a period for the purpose, the evidence **must be produced within that period.**”*

If the evidence is not produced within 365 days (1 year) of the date of determination this deferred commencement consent is of no effect, the consent does not operate and no construction certificate can be issued. No development can lawfully occur under this consent unless it operates.

Note: Nothing in the *Act* prevents a person from doing such things as may be necessary to comply with this condition. (See section 80(3) of the *Act*)

This consent does not operate until Council has acknowledged compliance with this condition in writing.

Note: Implementing the development prior to written confirmation of compliance may result in legal proceedings. If such proceedings are required Council will seek all costs associated with such proceedings as well as any penalty or order that the Court may impose. No *Construction Certificate* can be issued until all conditions including this condition required to be satisfied prior to the issue of any *Construction Certificate* have been satisfied.
Standard Condition: A3 (Autotext AA3)

A.2 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 both the architectural plans to which is affixed a Council stamp “Approved” 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)
1237-2	Plan Showing Proposed Subdivision of Lot 13 in DP 654466, 37 Bundarra Road, Bellevue Hill	D. J. Hore Pty Ltd	16/2/2017
170421-C0.01-Rev 2	Stormwater Easement Concept Plan	PL Civil Engineering	17/5/2017

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 (Autotext AA5)

A.3 No approval for any physical works

No approval is given for any physical works. This includes the demolition of the dwelling, the construction of the driveway but excludes stormwater works.

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

B.1 Public Road Assets prior to any work/demolition

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

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

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

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Applicant or Owner fails to submit the Asset condition report required by this condition and damage is occasioned to public assets adjoining the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose
Standard Condition: B7

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

C.1 Payment of Long Service Levy, Security, Contributions and Fees

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

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986			
Long Service Levy http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm	Contact LSL Corporation or use online calculator	No	
SECURITY under section 80A(6) of the Environmental Planning and Assessment Act 1979			
Property Damage Security Deposit -making good any damage caused to any property of the <i>Council</i>	\$2,300	No	T115
Security Administration Fee	\$189	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$2,489 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.

Standard Condition: C5

C.2 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.3 Stormwater Management Plan

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 plans prepared by PL Engineering, dated 17/05/17 for the construction of the proposed interallotment drainage system over proposed Lot 1, benefiting proposed Lot 2.
- b) The *Stormwater Management Plan* must also 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:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) All invert levels reduced to Australian Height Datum (AHD),
- c) Location and dimensions of all drainage pits,
- d) Point and method of connection to Councils drainage infrastructure, and
- e) Overland flow paths over impervious areas.

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

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.
Standard Condition: C.51 (Autotext CC51)

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

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

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

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

This condition does not apply:

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

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

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

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia. Standard Condition: D1 (Autotext DD1)

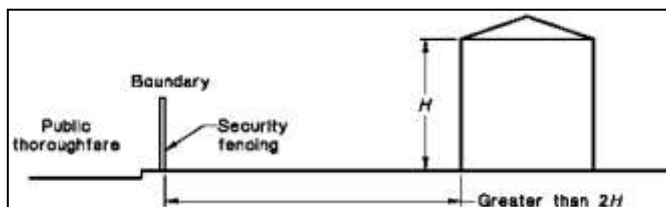
D.2 Adjoining buildings founded on loose foundation materials

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

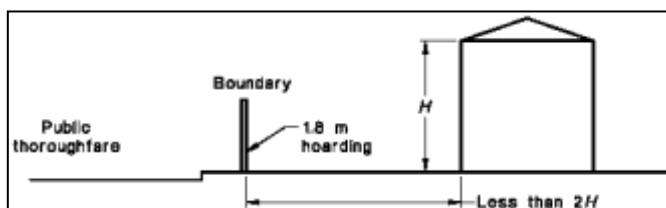
Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*. Standard Condition: D6 (Autotext DD6)

D.3 Security Fencing, Hoarding and Overhead Protection

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



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

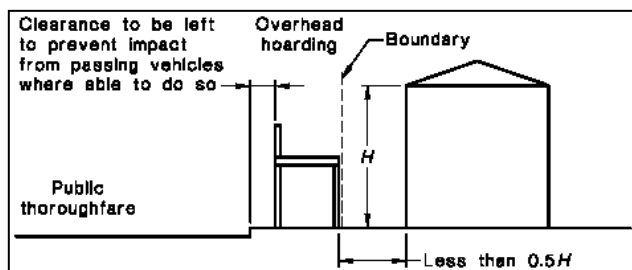


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either:

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

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

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



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

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

http://www.workcover.nsw.gov.au/formspublications/publications/Pages/WC00017_OverheadProtectiveStructuresCodeofPracti_.aspx

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

Note: The *principal contractor* or *owner* must allow not less than two (2) weeks from the date of making a hoarding application for determination. Any approval for a hoarding or overhead protection under the *Roads Act 1993* will be subject to its own conditions and fees.
Standard Condition: D11 (Autotext DD11)

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 (Autotext DD12)

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 (Autotext DD13)

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.

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

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

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

Standard Condition: D14 (Autotext DD14)

D.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.

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 (Autotext DD15)

D.8 Notification of Home Building Act 1989 requirements

- a) For the purposes of section 80A (11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.
- b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- In the case of work for which a *principal contractor* is required to be appointed:
 - the name and licence number of the principal contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that *Act*,
 - In the case of work to be done by an owner-builder:
 - the name of the owner-builder, and
 - if the owner-builder is required to hold an owner-builder permit under that *Act*, the number of the owner-builder permit.
 -

- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws.
Standard Condition: D17 (Autotext DD17)

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 (Autotext EE1)

E.2 Requirement to notify about new evidence

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

Standard Condition: E4 (Autotext EE4)

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 (Autotext EE5)

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 outside the approved hours of work will be considered on a case by case basis.

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

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

Note: see http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf

Standard Condition: E6 (Autotext EE6)

E.5 Public Footpaths – Safety, Access and Maintenance

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

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any *work*.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect heritage listed 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 (Autotext EE7)

E.6 Maintenance of Environmental Controls

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

- a) Erosion and sediment controls,
- b) Dust controls,
- c) Dewatering discharges,
- d) Noise controls;
- e) Vibration monitoring and controls;
- f) Ablutions;

Note: See http://www.epa.nsw.gov.au/small_business/builders.htm for additional information.
Standard Condition: E11

E.7 Support of adjoining land and buildings

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

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

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

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

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

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

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

Standard Condition: E13 (Autotext EE13)

E.8 Erosion and Sediment Controls – Maintenance

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

- a) The Soil and Water Management Plan required under this consent;
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and

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

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



Note: 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 (Autotext EE15)

E.9 Disposal of site water during construction

The principal contractor or owner builder must ensure:

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

Note: This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.
Standard Condition: E17 (Autotext EE17)

E.10 Placement and use of Skip Bins

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

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

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.
Standard Condition: E21 (Autotext EE21)

E.11 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

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

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

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

Note: This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that buildings are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.
Standard Condition: E20 (Autotext EE20)

E.12 Prohibition of burning

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

All burning is prohibited in the Woollahra local government area.

Note: Pursuant to the *Protection of the Environment Operations (Control of Burning) Regulation 2000* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.
Standard Condition: E22 (Autotext EE22)

E.13 Dust Mitigation

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

This generally requires:

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

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

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

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.
Standard Condition: E23 (Autotext EE23)

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 (Autotext FF1)

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

G.1 Land Subdivision Certificate (s109J of the Act)

A plan of subdivision cannot be registered under the Conveyancing Act 1919 unless a subdivision certificate has been issued for the subdivision. The person with the benefit of this consent must submit to Council an application for a Subdivision Certificate demonstrating compliance with section 109J of the Act.

No Subdivision Certificate must be issued until the plan of subdivision detailing the provision of all required easements and right of ways or the like to be registered upon the title of each lot to be so benefited or burdened has been submitted to Council.

Standard Condition: G1 (Autotext GG1)

G.2 Inter-allotment Drainage System

The required inter-allotment drainage system shall be constructed, surveyed and certified upon completion. The designing engineer or equivalent professional engineer shall supervise the works. All damages due to the construction process shall be fully and satisfactorily restored at the full cost to the applicant and to the satisfaction of Council’s Engineers. At the completion of the inter-allotment works, the following must be submitted to Council for approval:

- a) Certification from the supervising engineer that the as-constructed works comply with the approved inter-allotment design drawing;
- b) A full works-as-executed drawing, prepared by a registered surveyor, of the as-built inter-allotment drainage line (dimensions, grades, materials, invert levels) highlighting in red on the approved construction drawing;
- c) Certification from the surveyor that all inter-allotment drainage structures are wholly contained within the inter-allotment drainage easement which is yet to be registered.

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

No conditions

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

No conditions

J. Miscellaneous Conditions

No conditions

K. Advisings

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

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

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

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

Warnings as to potential maximum penalties

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

Warning as to enforcement and legal costs

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

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

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

<http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the

Attorney General's www.agd.nsw.gov.au.

Standard Advising: K1 (Autotext KK1)

K.2 Dial before you dig



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

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

Standard Advising: K2 (Autotext KK2)

K.3 Appeal

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

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

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

Standard Condition: K14 (Autotext KK14)

K.4 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/data/assets/pdf_file/0004/76405/Refund_of_Security_Form.pdf
Standard Condition: K15 (Autotext KK15)

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

For the Motion

Councillor Bennett
Councillor Cavanagh
Councillor O'Regan
Councillor Petrie
Councillor Thomas
Councillor Wynne
Councillor Zeltzer

Against the Motion

Councillor Elsing
Councillor Levenston
Councillor Marano
Councillor Robertson

7/4

Urban Planning Committee

Items with Recommendations from the Committee Meeting of Monday 24 July 2017 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **PUBLIC EXHIBITION OF THE PLANNING PROPOSAL FOR 374 AND 376-382 NEW SOUTH HEAD ROAD, DOUBLE BAY - (SC2880)**
Author: Anne White, Team Leader - Strategic Planning
Approver: Chris Bluett, Manager - Strategic Planning
File No: 17/119224
Reason for Report: To report on the public exhibition of the planning proposal for 374 and 376-382 New South Head Road, Double Bay.
To obtain Council's approval to defer further consideration of the planning proposal until the review of planning controls in the Double Bay Centre has reached the community engagement stage.

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

Note: The Mayor Councillor Zeltzer declared a Significant, Non-Pecuniary Interest in this Item, as she is a Panel member of the Sydney Central Planning Panel (SCPP). Councillor Zeltzer vacated the meeting and did not participate in the debate or vote on this matter. Deputy Mayor, Councillor Susan Wynne assumed the Chair.

Note: Late correspondence was tabled by Council's Manager Strategic Planning, Chris Bluett, Lesli Berger, Michael & Sarah Lawrence, Elizabeth Terrill, Karin Olah, Robert Coppola & Michelle Falstein, Virginia Hewitt, Suzanne Gartner, Susan & William Anderson, Roger Muller, Lara & Ari Taibel, Anthony Tregoning, Brian O'Dowd, Sandra & Bernard McLeod, Mrs W Miranda Marshall, Malcolm Young & Tony Moody.

Motion moved by Councillor Petrie
Seconded by Councillor Bennett

That the planning proposal for 374 and 376-382 New South Head Road, Double Bay proceed without change other than the update required by Condition No. 3 of the gateway determination.

Amendment moved by Councillor Robertson
Seconded moved by Councillor Levenston

- A. That the planning proposal for 374 & 376-382 New South Head Road, Double Bay, be refused for excessive FSR and building height which would result in:
- Unacceptable bulk and scale
 - Impacts on amenity including overshadowing
 - Lack of setbacks and non-compliance with SEPP 65
 - View loss and overlooking
 - Loss of village character

- B. That the Minister be requested to determine that the planning proposal not proceed under section 58(4) of the Environment Planning Assessment Act 1979.

The Amendment was put and lost

**Amendment moved by Councillor Thomas
Seconded by Councillor Marano**

That consideration of the planning proposal for 374 and 376-382 New South Head Road, Double Bay is deferred until the review of planning controls in the Double Bay Centre has reached the conclusion community engagement stage.

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

(Petrie/Bennett)

181/17 Resolved:

That the planning proposal for 374 and 376-382 New South Head Road, Double Bay proceed without change other than the update required by Condition No. 3 of the gateway determination.

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

For the Motion

Councillor Bennett
Councillor Cavanagh
Councillor O'Regan
Councillor Petrie
Councillor Wynne

Against the Motion

Councillor Levenston
Councillor Marano
Councillor Robertson
Councillor Thomas

5/4

Notices of Motion

Item No: 11.1
Subject: NOTICE OF MOTION - ALLOCATION OF COUNCILLORS FEES AND EXPENSES
From: Councillors Matthew Robertson, Susan Wynne and Peter Cavanagh
Date: 9/08/2017
File No: 17/143585

(Robertson/Wynne)

182/17 Resolved:

That Council:

- A. Notes its decision of 25 May 2015 to allocate savings from Councillor fees and expenses made available due to the resignations of Cr Anthony Boskovitz and Cr Elena Wise, to the wards of Vaocluse and Paddington for expenditure on local projects determined in consultation with the Mayor and remaining ward Councillors.
- B. Confirms that this arrangement was intended to extend for the remainder of the Council term, and thus beyond the budget year 2015-16.
- C. Notes that no allocation was made in the 2016-17 budget or 2017-18 budget for the partial period of the casual vacancies and accordingly requests the Councillor fees savings of approximately \$20k in casual vacancies in Vaocluse and Paddington Wards be now allocated for expenditure on local projects within those respective wards.
- D. Requests the Mayor and remaining Vaocluse and Paddington Ward Councillors meet to allocate funds to local projects by 8 September 2017.

Adopted

Questions for Next Meeting

Item No: 12.1
Subject: **QUESTIONS FOR NEXT MEETING**
Author: Sue O'Connor, Secretarial Support - Governance
Approver: Stephen Dunshea, Director Corporate Services
File No: 17/139599
Reason for Report: To provide a response to Questions for Next Meeting from Council Meeting of 24 July 2017 and for Councillors to ask Questions for Next Meeting in accordance with Council's Code of Meeting Practice.

(Wynne/Robertson)

183/17 Resolved:

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

Question No: 12.2 Royal Sydney Golf Course - Tree Removal

Councillor Robertson asking:

Given the significance of Royal Sydney Golf Club as a green corridor in Council's biodiversity plan, are staff aware that 3 large trees have been removed on the O'Sullivan Road frontage. Were these recent removals undertaken with Council consent?

What is the usual process for tree removals on the Royal Sydney Golf course site?

What has been Council's involvement if any, in the development of a new masterplan for the site, which I am led to believe is well advanced any may involve the possible removal of up to 600 trees?

Director Technical Services in Response:

On Notice

Question No: 12.3 Electric Cars

Councillor Robertson asking:

What is Council's position on electric cars and charging points?

I believe a Notice of Motion was adopted some time ago and I'm keen to know where we are now at.

Director Technical Services in Response:

On Notice

There being no further business the meeting concluded at 10.05pm.

We certify that the pages numbered 2121 to 2217 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 14 August 2017 and confirmed by Council at the Ordinary Meeting of Council on 28 August 2017 as correct.

General Manager

Mayor