

Council Meeting

Monday 22 September 2014

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Items Determined Under Delegated Authority by Council Committees

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

Corporate & Works Committee Meeting held on Monday 15 September 2014

- D1 Confirmation of Minutes of Meeting held on 1 September 2014
- D2 Monthly Financial Report - August 2014

Development Control Committee Meeting held on Monday 18 September 2014

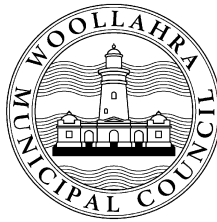
- D1 Confirmation of Minutes of Meeting held on 1 September 2014
- D2 DA120/2014 – 4 Fisher Avenue, Vaucluse – Alterations & additions, including a new roof level addition – 4/4/2014
- D3 DA142/2014 – 3/84-86 Wolseley Road, Point Piper – Construction of stair to the northern side of the site – 17/4/2014
- D4 Register of Current Land and Environment Court Matters and Register of Court Proceedings for Building Control, Environmental Control & Health Control
- D5 Register of SEPP 1 Objections

Urban Planning Committee Meeting held on Monday 8 September 2014

- D1 Confirmation of Minutes of Meeting held on 25 August 2014

Community & Environment Committee Meeting held on Monday 8 September 2014

No Meeting



Council Meeting

**Minutes of the Meeting of Woollahra Municipal Council
held at the Council Chambers, Double Bay, on
Monday 22 September 2014 at 8.00pm.**

Present Her Worship the Mayor, Councillor Toni Zeltzer
Councillors Peter Cavanagh
Luise Elsing
James Keulemans
Greg Levenston
Anthony Marano
Katherine O'Regan
Andrew Petrie
Matthew Robertson
Deborah Thomas
Elena Wise
Jeff Zulman

Staff: Allan Coker (Director – Planning & Development)
Ailsa Crammond (Acting Manager – Governance)
Stephen Dunshea (Acting General Manager)
Tom O'Hanlon (Director – Technical Services)
Kylie Walshe (Director – Community Services)

Also in Attendance: Nil

Confirmation of Minutes

(Thomas/Elsing)

- 1/17 THAT the Minutes of the Council Meeting held on 8 September 2014 be taken as read and confirmed.

Adopted

(Levenston/Thomas)

- 2/17 THAT the Minutes of the Extraordinary Council Meeting held on 18 September 2014 be taken as read and confirmed.

Adopted

Leave of Absence

(Levenston/Cavanagh)

- 3/17 That leave of absence for all meetings of the Council and its Committees be granted to Councillor Anthony Boskovitz from Tuesday 23 September 2014 to Monday 10 November 2014, inclusive.

Adopted

(Levenston/Cavanagh)

- 4/17 That leave of absence for all meetings of the Council and its Committees be granted to Councillor Elena Wise from Monday 27 October 2014 to Monday 10 November 2014, inclusive.

Adopted

Note: Leave of Absence has previously been granted to Councillor Bennett.

Apologies

(Levenston/Cavanagh)

- 5/17 Apologies were received and accepted from Councillor Boskovitz and Councillor Wynne and Leave of Absence granted.

Adopted

Declarations of Interest

Councillor Andrew Petrie declared a Pecuniary Interest in relation to Corporate & Works Item R3 (9A Cooper Park Road, Bellevue Hill) as he is the owner of property adjacent to Cooper Park. Councillor Petrie vacated the meeting during consideration of this item and did not participate in the debate or vote on the matter.

Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Monday 15 September 2014 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **Tender 9/2014 SSROC Supply, Supply & Install, Maintenance of Road and Traffic Control Equipment**
Author: Dave Byatt – Purchasing Coordinator
File No: 811.G
Reason for Report: To recommend acceptance of an SSROC tender

Note: Late correspondence was tabled by Council's Manager Civil Operations, Mark Ramsay.

(Thomas/Wise)

6/17 Resolved without debate:

- A. That Council enters into a panel agreement with Artcraft Pty Ltd, De Neefe Pty Ltd and Hi Viz Signs and Safety for the provision of Supply, Supply & Install, Maintenance of Road and Traffic Control Equipment for a three (3) year period, with, subject to satisfactory performance and at Council's discretion, an option to extend for a further two (2) year period.
- B. That unsuccessful tenderers are notified of the Tender result.

Item No: R2 Recommendation to Council
Subject: **Double Bay Chamber of Commerce funding request for 2014/2015**
Author: P Kauter, Executive Planner
File No: 1222.G
Reason for Report: To consider the Double Bay Chamber of Commerce's request for funding for 2014/2015

(Thomas/Wise)

7/17 Resolved without debate:

- A. That the Council agree to provide funding to the Double Bay Chamber of Commerce for the 2014/2015 financial year of an amount not exceeding \$160,000 (+ GST) for the purpose of undertaking the activities set out in its funding submission *DBCC Business Plan & Funding Submission of FY14/15* (the Funding Submission).
- B. That 20% (\$32,000) of the approved funding be withheld pending the Double Bay Chamber of Commerce providing a satisfactory mid-stream report on its activities.

- C. That future funding for the Double Bay Chamber of Commerce be considered in the context of place-making strategies currently being developed through the Double Bay Working Party with continuation of funding beyond 2014/15 to be reviewed.

Item No: R3 Recommendation to Council
Subject: **Tender 14/09 – Sale of 9A Cooper Park Road, Bellevue Hill**
Author: Minnie Cai – Property Officer
File No: Tender 14/09 and File 620.G Part 8
Reason for Report: To recommend to Council that it resolve to enter into closed session to consider a confidential report in relation to Tender 14/09 for the sale of 9A Cooper Park Road, Bellevue Hill.

Note: Councillor Andrew Petrie declared a Pecuniary Interest in relation to this Item as he is the owner of property adjacent to Cooper Park. Councillor Petrie vacated the meeting during consideration of this item and did not participate in the debate or vote on the matter.

(Thomas/Cavanagh)

8/17 Resolved:

- A. That Council note the outcome of Tender No. 14/09 for the sale 9A Cooper Park Road, Bellevue Hill.
- B. That Council enter into a Contract for Sale with Maryland Developments Pty Ltd for the purchase of 9A Cooper Park Road, Bellevue Hill for \$9,143,000 (excl GST).
- C. That the Seal of Council be affixed to all necessary documentation to effect the sale.
- D. That successful and unsuccessful tenderers be advised accordingly.

Note: **A Division was called by Councillor Robertson**

For the Motion

Against the Motion

Councillor Zulman
 Councillor Levenston
 Councillor Cavanagh
 Councillor Wise
 Councillor Keulemans
 Councillor Thomas
 Councillor Zeltzer
 Councillor Elsing
 Councillor O'Regan
 Councillor Marano

Councillor Robertson

10/1

Development Control Committee

Items with Recommendations from the Committee Meeting of Monday 18 September 2014 Submitted to the Council for Determination

Item No: R1 Recommendation to Council

Subject: **3/84-86 Wolseley Road, Point Piper – Construction of stair to the northern side of the site – 17/4/2014**

Author: Simon Taylor – Assessment Officer

File No: DA 142/2014

Reason for Report: In accordance with Council’s meeting procedures and policy this matter has been called to full Council by Councillor Wynne for the following reasons:

- 1 Given the history of the matter in the Land and Environment Court
- 2 The interest from many Councillors not on the Development Control Committee

Note: Late correspondence was tabled by Celia & Eckart Bischoff.

(Levenston/Robertson)

9/17 Resolved: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act 1979

THAT the Council, as the consent authority, grant development consent to Development Application No. 142/2014 for the construction of a stair in the landscaped area to the northern side of the site on land at 3/84-86 Wolseley Road, Point Piper, subject to the following conditions:

A. General Conditions

A.1 Conditions

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

Standard Condition: A1

A.2 Definitions

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

Applicant means the applicant for this Consent.

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

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

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

Council means Woollahra Municipal Council

Court means the Land and Environment Court

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

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

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

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

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

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

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

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

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

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

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

Site means the land being developed subject to this consent.

WLEP 1995 means *Woollahra Local Environmental Plan 1995*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,

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

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

A.3 Approved Plans and supporting documents

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

Reference	Description	Author/Drawn	Date(s)
A.1.01 and A.1.02	Architectural Plans	iD Adobe	14 July 2014 (Issue C)

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

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

B.1 Construction Certificate required prior to any demolition

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

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

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

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

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

- a) The bottom landing is to match the existing landing on common property at the same RL height
- b) The staircase lighting is limited to the northern side of the screen, projecting downwards and away from the other units, non-adjustable and activated by a sensor at the top and bottom landing
- c) The approved acoustic screen must be constructed of a solid material such as hebel panels (75mm) or fibre cement (fc) sheeting (15mm). The external finish shall be rendered and shall be painted in a dark green, non reflective colour
- d) The screen shall not have any apertures or openings
- e) The acoustic screen shall extend to the existing ground level below the proposed staircase for its full length so as to fully cover the undercroft area underneath the staircase. The undercroft area is not to be visible from the adjoining units at 84 Wolseley Road. The screen shall be completely sealed at the bottom for its full length to reduce reflections of noise and to improve the aesthetic appearance of the screen

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 the following security prior to the issue of a *construction certificate*.

Description	Amount	Indexed	Fee Code
SECURITY under section 80A(6) of the Environmental Planning and Assessment Act 1979			
Property Damage Security Deposit - making good any damage caused to any <i>Council</i> property	\$2,132	No	T115
Inspection Fees under Section 608 of the Local Government Act 1993	\$185		T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$2,317 plus any relevant indexed amounts and long service levy		

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.3 Soil and Water Management Plan – Submission & Approval

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

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

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

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

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

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

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

C.4 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.5 Stormwater discharge to existing Stormwater Drainage System

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

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

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

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

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

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

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

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

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

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

www.woollahra.nsw.gov.au

Standard Condition: C49

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

D.1 Compliance with Building Code of Australia

For the purposes of section 80A (11) of the Act, the work must be carried out in accordance with the requirements of the Building Code of Australia, 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.

Standard Condition: D1

D.2 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.3 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.4 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)

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

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

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

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

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

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

Note: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 81A(2) of the *Act*. Standard Condition: D15

D.5 Establishment of building location and datum

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

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

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

Note: On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks should be considered by the registered surveyor.
Standard Condition: D18

E. Conditions which must be satisfied during any development work

E.1 Compliance with Building Code of Australia

For the purposes of section 80A (11) of the Act, the work must be carried out in accordance with the requirements of the Building Code of Australia, 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.
Standard Condition: D1

E.2 Hours of Work –Amenity of the neighbourhood

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

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

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

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

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

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

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

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

Note: see http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf
Standard Condition: E6

E.3 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.4 Check Surveys - boundary location

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.

Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure or the like, 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.

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

Standard Condition: E20

E.5 Placement and use of Skip Bins

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

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

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

Standard Condition: E21

E.6 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

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

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 Removal of Ancillary Works and Structures

The *principal contractor* or *owner* must remove the site sign and any waste materials, matter, article or thing from the land and any adjoining public place:

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

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

I.1 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.

The lighting is to be activated by a sensor at the top and bottom landing and to remain on for no more than 20 seconds.

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: I48

I.2 Noise Control

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

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

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) published by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

Community Justice Centres—free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).

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

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

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

Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).

Department of Gaming and Racing - (www.dgr.nsw.gov.au).

Standard Condition: I56

J. Miscellaneous Conditions

Nil.

K. Advisings

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

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

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

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

Warnings as to potential maximum penalties

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

Warning as to enforcement and legal costs

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

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

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

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

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

Standard Advising: K1

K.2 Builders Licences and Owner Builders Permits

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

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

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

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

Standard Condition: K5

K.3 Building Standards - Guide to Standards and Tolerances

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

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

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

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.4 Workcover requirements

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

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

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

Location: Workcover NSW, 92-100 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.5 Release of Security

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

The securities will not be released until a *Final Occupation Certificate* has lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council’s requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council’s requirements. Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council’s satisfaction as the case may be.

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

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

Note: The Application for Refund of Security form can be downloaded from

<http://www.woollahra.nsw.gov.au/pdf/Forms/Planning/RefundofSecurity.pdf>

Standard Condition: K15

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 Elsing
Councillor Keulemans
Councillor Levenston
Councillor Marano
Councillor O'Regan
Councillor Robertson
Councillor Wise
Councillor Zeltzer
Councillor Zulman

Against the Motion

Councillor Cavanagh
Councillor Petrie
Councillor Thomas

9/3

Urban Planning Committee

Items with Recommendations from the Committee Meeting of Monday 8 September 2014 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **Planning Proposal for 240 New South Head Road, Edgecliff**
Author: Brendan Metcalfe – Strategic Planner
File No: 1064.G (Planning Proposal Request - 240 New South Head Road, Edgecliff)
Reason for Report: To report on the public exhibition of the planning proposal for 240-246 New South Head Road, Edgecliff.
To obtain Council's approval to proceed with finalisation of the planning proposal.

(O'Regan/Thomas)

10/17 Resolved without debate:

That Council exercise its delegation authorised by the Department of Planning and Environment on 12 May 2014, to finalise and make the planning proposal, under section 59(2) of *the Environmental Planning and Assessment Act 1979*, in the manner in which it was exhibited.

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

For the Motion

Against the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Keulemans
Councillor Levenston
Councillor Marano
Councillor O'Regan
Councillor Petrie
Councillor Robertson
Councillor Thomas
Councillor Wise
Councillor Zeltzer
Councillor Zulman

Nil

12/0

Notice of Motion

Item No: 1
From: Councillor Petrie
Date: 16 September 2014
File No: 900.G

(Petrie/Cavanagh)

- 11/17** A. THAT the Woollahra Council note the NSW State Government's "Fit for Future" program for Local Government and reaffirm the Council's in principle support for reform of local government generally.
- B. THAT the Council continue to work with Sydney Metropolitan Mayors (SMM) and maintain our support for the bulk of the other reforms of the Local Government Review Panel that have the capacity to achieve broader community benefits and economies of scale without the need for amalgamation.
- C. THAT, having regard to the State Government's apparent preference to merge Councils in order to reduce the total number of metropolitan Councils without any regard to the individual financial strength and sustainability of individual councils, that Woollahra Council continues discussions on the "Fit for Future" program with all neighbouring councils, including the City of Sydney, which should not be seen as a formal commitment for amalgamation but as a fact finding endeavour.
- D. THAT in view of the State Government's recent response to reforming Local Government and notwithstanding Council's support for reform of Local Government generally, Woollahra Council
- (i) acknowledge and support our residents' desire to remain independent and reiterate Council's strong, in principle, position of opposing any merger/amalgamation proposal that cannot demonstrate significant tangible benefits to our Woollahra residents and ratepayers that are not achievable as a stand-alone Council.
 - (ii) make residents aware this Council is financially sound and that NSW Treasury have recently assessed the Council as financially sustainable and have determined our financial outlook for the future as "Positive."
 - (iii) note that further templates and assessment criteria is to be provided by the State Government to assist the Council to make an appropriate response to the State Government by the 30 June 2015 deadline.
 - (iv) authorise appropriate payments to the Sydney Metropolitan Mayors (SMM), of which Council is a member, to fund activities and projects not inconsistent with the Council's current adopted position of no forced amalgamations.
 - (v) authorise the General Manager to make payments necessary in order for the Council to appropriately prepare reports for the Council's consideration.
- E. THAT Council staff request from the Office of Local Government that the designated Regional Relationship Manager for Woollahra Council attend Woollahra Council to provide a comprehensive briefing to all Councillors on the "Fit for Future" program.

- F. THAT a formal independent review of the SGS Economics & Planning *Eastern Sydney Local Government Review Report* dated February 2013 commissioned by Randwick City Council be conducted, having reference to the quality of services and the outcomes for our community, to enable all Councillors to have a thorough, informed understanding of the Report.

Adopted Unanimously

Item No: 2
From: Councillor Wynne and Councillor Thomas
Date: 17 September 2014
File No: 900.G

(Thomas/O'Regan)

- 12/17** THAT a report be submitted to the appropriate Committee canvassing options and process for introducing an Independent Hearing and Assessment Panel ('IHAP') to function either as a recommending body to Council or as a body with complete delegations: the options to include the possibility of a trial period for the recommending model before progressing to the delegation model.

Adopted

Item No: 3
From: Councillor O'Regan
Date: 18 September 2014
File No: 900.G

(O'Regan/Zulman)

- 13/17** THAT Council write to the NSW Attorney General requesting swift action to change the law to make it illegal to place bill posters on poles and other surfaces and make venue operators and promoters responsible for any breach of that law.

Adopted

Questions for Next Meeting

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

(Wise/Zulman)

14/17 That Councillors ask Questions for Next Meeting in accordance with Council's Code of Meeting Practice.

Adopted

The following questions were asked:-

Nil

There being no further business the meeting concluded at 8.50pm.

We certify that the pages numbered 3518 to 3543 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 22 September 2014 and confirmed by Council at the ordinary Meeting of Council on 7 October 2014 as correct.

General Manager

Mayor