

Annexure C

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No: DA533/2017/1

Development: substantial demolition and reconstruction of an existing dwelling, a new carport, landscaping and site works, and rectification works to an existing sea wall.

Site: 4 Cove Street, Watsons Bay (Lot 2 in DP 978780)

Schedule of Modifications:

Date approved	Modification Application Number	Decision maker	Proceedings Name and Number (if applicable)
21 September 2022	DA533/2017/2	Land and Environment Court	<i>Mersonn Pty Ltd v Woollahra Municipal Council</i> Proceedings No. 2022/126017

Date of determination: 19 July 2018

Date from which consent takes effect: Date of Determination

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 (Autotext AA1)

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 (Autotext AA2)

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)
DA-002	Site Plan	C2 Architecture	27/10/2017
DA-030	Existing Ground Level Plan		27/10/2017
DA-031	Existing Level 1 Plan		15/03/2017
DA-050	Existing Elevations		27/10/2017
DA-100	Ground Level Floor Plan		27/10/2017
DA-101	Level 1 Floor Plan		27/10/2017
DA-102	Roof Plan		27/10/2017
DA-300	Elevations – Sheet 1		27/10/2017
DA-301	Elevations – Sheet 2		27/10/2017
DA-302	Elevations – Sheet 3		27/10/2017
DA-400	Sections		27/10/2017
	BASIX Certificate	NSW Department of Planning and Infrastructure	
Plan No. LPP/D	Landscape Plan	Land Art Landscapes	01/09/2017
Plan No. LMP/F	Landscape Plan	Land Art Landscapes	13/09/2017
	Arboricultural Impact Assessment Report	Sam Allouche – NSW Tree Services P/L	08/08/2016

	Arboricultural Statement	Sam Allouche – NSW Tree Services P/L	21/06/2016
30862ZRpt	Geotechnical Report	JK Geotechnics	05/10/2017
16165	Remedial Report	TLB P/L	29/07/2016
lrJ0111	Coastal Report	Horton Coastal Engineering	06/10/2017

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.4 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)
12	<i>Araucaria columnaris</i> (Cook Island pine)	Rear yard	15 x 5

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

b) The following trees must be removed:

Council Ref No.	Species	Location	Dimension (metres)
1	<i>Howea forsteriana</i> (Kentia palm)	Front yard north western corner	6 x 3
2 – 5	<i>Syagrus romanzoffianum</i> (Cocos palm)*	Front boundary	~8 x 6 each
6, 7	<i>Syagrus romanzoffianum</i> (Cocos palm)*	Front setback adjacent to the eastern side boundary	~8 x 6 each

9, 8	<i>Cupressus spp</i> (Cypress pine)	Rear yard western side boundary of 2 Cove Street Watsons Bay *	6 x 2 each
10	<i>Howea forsteriana</i> (Kentia palm)	Rear yard eastern side boundary	5 x 3
11	<i>Ficus benjamina</i> (Weeping Fig)	Rear yard eastern side boundary	4 x 4

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

*** Consent obtained from the owner of 2 Cove Street Watsons Bay refer to email correspondence titled 4 Cove Street, Watsons Bay, written by Conny Kollmann – Landart, dated 27/02/2018 – re: consent from the owner of 2 Cove Street Watsons Bay**

A.5 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 (Autotext AA8)

A.6 Development Consent is not granted in relation to these matters

With the exception of the removal of two cypress pine trees at the western side boundary to 2 Cove Street, no approval is given to any works which encroach beyond the boundaries of the site onto 6 Cove Street or 2 Cove Street.

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

The proposed skid forms water based development in accordance with the SREP (Sydney Harbour Catchment) 2005 and as Council is not the consent authority for water-based development, no approval is granted to the skid.

A.8 General Terms of Approval – [Fisheries Management Act 1994](#) (DPI)

The following general terms of approval have been imposed by the [NSW Department of Primary Industries](#):

- a) Appropriate erosion and sediment control measures are to be used during construction of the seawall to mitigate potential flow on turbidity related impacts to the adjoining waterway.

Note: These conditions have not been imposed by Council but are required to be incorporate as conditions of development consent. Where there is any inconsistency between these general terms of approval and other conditions of this consent the more onerous requirement prevails.

Note: Should you have any questions relating to this condition please contact Conservation Manager, Cronulla Fisheries Centre, PO Box 21, CRONULLA NSW 2230.
Standard Condition: A10 (Autotext AA10)

A.9 Approved Amended (section 4.55) Plans and Supporting Documents (inserted by DA533/2017/2)

Those acting upon or under this amended consent must carry out all work and maintain the use and works in accordance with the approved plans and supporting documents listed in the original consent, as amended by the amended architectural approved plans to which is affixed a Council stamp "Approved" and supporting documents as submitted by the Applicant listed below otherwise than modified by further condition(s).

Where the plans relate to amendments, alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
00 Rev E – Site Plan	Architectural Plans, Project No. 1/2022	David Katon Studio Pty Ltd	03/08/2022
01 Rev E – Ground Floor Plan			03/08/2022
02 Rev E – First Floor Plan			03/08/2022
03 Rev G – Elevations N/S			17/08/2022
04 Rev G – Elevations E			17/08/2022
05 Rev G – Elevation W			17/08/2022
06 Rev G – Section			17/08/2022
07 Rev G – Roof Plan			17/08/2022
15 Rev E – Front Fence			03/08/2022
17 Rev E – View Lines			03/08/2022
18 – Demolition Plans	Demolition Plans Project No. 1/2022	David Katon Studio Pty Ltd	23/08/2022
19 – Demolition Plans			23/08/2022
20 – Demolition Plans			23/08/2022
A4728289	BASIX Certificate	Sustain Build Projects	05/09/2022
Plan No. 12/E	Landscape Plan	David Katon Studio Pty Ltd	03/08/2022
16 Rev E - Finishes	Sample Board	David Katon Studio Pty Ltd	03/08/2022
Site Waste Minimisation and Management Plan Demolition and Construction			09/09/2022

Note: These plans and supporting documentation may be subject to conditions modifying the development imposed under section 4.17(1)(g) of the Act (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

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 (Autotext BB1)

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)
12	<i>Araucaria columnaris</i> (Cook Island pine)	Rear yard	3

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 brought 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) Trunk protection shall be installed around the trunks of the following trees:

Council Ref No.	Species
12	<i>Araucaria columnaris</i> (Cook Island pine)

Trunk protection shall consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or similar) shall be placed over the padding and around the trunk of the tree at 150mm centres. The planks shall be secured with 8 gauge wire at 300mm spacing. Trunk protection shall extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

d) 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.

e) 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.

- f) Establishment of Ground protection
Ground protection shall be established within the specified radius from the trunks of the following trees.

Council Ref No.	Species	Tree Location	Radius from Centre of Trunk (Metres)
12	<i>Araucaria columnaris</i> (Cook Island pine)	Rear yard	6

Ground protection shall consist of (geotech fabric placed directly over the ground surface with 100mm mulch / aggregate / rumble boards strapped over mulch / steel plating over 10mm mulch layer / retention of existing surface.

- g) 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 this consent.
- h) The site foreman must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- i) 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	Radius from Trunk (metres)	Approved works
12	<i>Araucaria columnaris</i> (Cook Island pine)	6	Proposed soft landscaping. Proposed cantilevered decking within 3 metres of the trunk of the tree. Proposed repairs to sea wall, No roots severed for the construction/repair of the sea wall.

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 fencing	Compliance with tree protection measures
Construction of sea wall	Condition of exposed roots. Ensure no roots greater than 50mm diameter from Tree No.12 are severed.
Inspection of pier holes for proposed decking	Piers positioned to avoid the severance of and damage to roots greater than 50mm diameter.
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 Aboriginal Objects – Unexpected Findings (inserted by DA533/2017/2)

If unexpected Aboriginal objects or bones are found during any activity associated with this consent, you must:

- a) Not further disturb or move these objects or bones.
- b) Immediately cease all work at the particular location.
- c) In the case of suspected human remains, notify NSW Police.
- d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse LALC on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.
- e) Not recommence any work at the particular location unless authorised in writing by Heritage NSW. Additional assessment and approval pursuant to the *National Parks and Wildlife Act 1974* may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: The Definition of Aboriginal object as per the Woollahra Local Environmental Plan 2014: any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

B.8 Aboriginal Heritage Due Diligence Responsibilities (inserted by DA533/2017/2)

Nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is

an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.

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) (amended by DA533/2017/2)

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 proposed decking structure adjacent to the seaside is prohibited under Clause 6.4(2) of the WLEP 2014 and shall be deleted.
- b) **Deleted under DA533/2017/2**
- c) **Deleted under DA533/2017/2**
- d) **Deleted under DA533/2017/2**
- e) The proposed skid forms water based development in accordance with the SREP (Sydney Harbour Catchment) 2005 and as Council is not the consent authority for water-based development, no approval is granted and the skid shall be deleted.
- f) **Deleted under DA533/2017/2**
- g) **Deleted under DA 533/2017/2**
- h) **The metal roofing is to be Colourbond Shale Grey colour.**

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>	\$38,740	No	T115

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)	\$15,542.11 + Index Amount	Yes, quarterl y	T96
INSPECTION FEES			
under Section 608 of the Local Government Act 1993			
Public Road/Footpath Infrastructure Inspection Fee	\$452	No	
Security Administration Fee	\$180	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$54,914.11 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 (amended by DA533/2017/2)

The Applicant must submit to the Certifying Authority BASIX Certificate **No. A4728289** 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 4.55 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 and Assessment Regulation* 2000 provides: "A certifying authority must not issue a Construction Certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires".

C.4 Checking Construction Certificate plans & protecting assets owned by the Sydney Water Corporation

The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and any requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site www.sydneywater.com.au for:

- ☐ Quick Check agents details – see Building and Development then Quick Check and
- ☐ Guidelines for Building Over/Adjacent to Sydney Water Assets – see Building and Development then Building and Renovating

Note: Further information can be obtained from the Sydney Water Corporation by visiting their web site: <http://www.sydneywater.com.au> or telephone 13 20 92.
Standard Condition: C24

C.5 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 (Autotext CC35)

C.6 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.7 Stormwater discharge to existing Stormwater Drainage System

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

- a) Stormwater runoff from the site shall be collected and directed to a gross pollution trap for stormwater quality control prior to discharging to the Harbour via the existing outlet pipe.
- b) The location of the existing *Stormwater Drainage System* including all pipes, inspection openings, surface drains, pits and their discharge location,
- c) The state of repair of the existing *Stormwater Drainage System*,
- d) Any remedial works required to upgrade the existing Stormwater Drainage System to comply with the BCA,

- e) Any remedial works required to upgrade the existing Stormwater Drainage System crossing the footpath and any new kerb outlets,
- f) Any new Stormwater Drainage System complying with the BCA,
- g) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath,
- h) Any rainwater tank (See Note Below) required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*, and
- i) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management

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

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

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

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

Note: Stormwater Drainage Systems must not discharge to any Sewer System. It is illegal to connect stormwater pipes and drains to the sewerage system as this can overload the system and cause sewage overflows. See: <http://www.sydneywater.com.au/Publications/Factsheets/SewerfixLookingAfterYourSewerPipes>

Note: Woollahra Municipal Council's *Specification for Roadworks, Drainage and Miscellaneous Works* dated January 2003 and Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management can be downloaded from Council's website: www.woollahra.nsw.gov.au
Standard Condition: C49

C.8 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 (Autotext CC62)

C.9 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.10 Deleted by DA533/2017/2

C.11 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 the following infrastructure works prior to the issuing of any *Construction Certificate*. The infrastructure works must be carried out at the applicant's expense:

- a) The removal of the existing vehicular crossing including gutter and layback and the construction of a new vehicular crossing in accordance with Council's standard driveway drawing RF2_D. The new crossing shall be constructed at right angle to the street kerb in plain concrete and the centreline of the new crossing shall be in-line with the centreline of the driveway opening at the property boundary. A design longitudinal surface profile for the proposed driveway must be submitted for assessment.
- b) Reinstatement of all damaged footpath, kerb and gutter within the frontage of the site to match existing.

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

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

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

necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

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

Standard Condition: C13 (Autotext CC13)

C.12 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 be satisfied as to this matter.
Standard Condition: C25

C.13 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 (Autotext: CC40)

C.14 Coastal protection

The *Construction Certificate* plans and specifications, required by Clause 139 of the *Regulation*, must include a Coastal Risk Management Plan detailing:

- ☐ The repaired seawall is to have a crest level of RL3.00m AHD. As such, the submitted Remedial Report and Geotechnical Report shall also be updated so that it is consistent with the recommendation mentioned in the Coastal Report prepared by Horton Coastal Engineering.

Coastal protection is to comply with Woollahra DCP 2015, Part E “General Controls for All Development” Chapter E2 “Stormwater and Flood Risk Management” DCP

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 (autotext CC54)

C.15 Submission of a Sample Board of External Materials and Colours

A Sample Board of External Materials and Colours, prepared in accordance with Section 5.11 of the Woollahra Municipal Council’s DA Guide, is to be submitted to Council for approval prior to a Construction Certificate being issued.

Standard Condition: C68 (Autotext: CC68)

C.16 Submission of a Site Waste Minimisation and Management Plan (inserted by DA533/2017/2)

A Site Waste Minimisation and Management Plan, prepared in accordance with Woollahra Development Control Plan 2015 Chapter E5 – Waste Management, is to be submitted to Council for approval prior to a Construction Certificate being issued.

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.

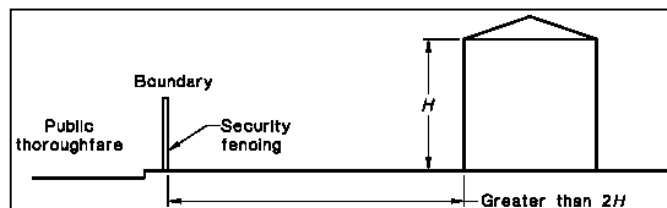
Note: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the Home Building Act 1989. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.

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)

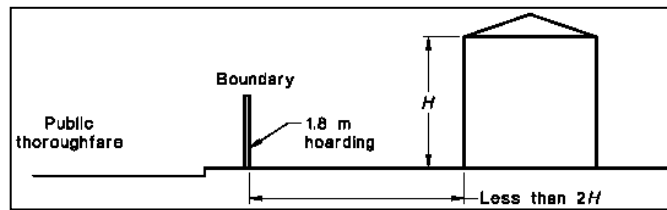
D.2 Security Fencing, Hoarding and Overhead Protection

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



Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless the least

horizontal distance between the common boundary and the nearest parts of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8 m adjacent to the thoroughfare.

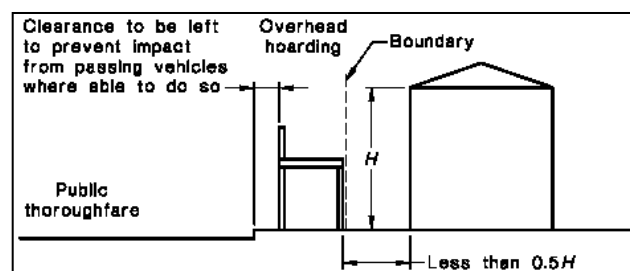


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either:

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

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

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



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

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

http://www.workcover.nsw.gov.au/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.3 Site Signs

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

Clause 98A of the *Regulation* provides:

Erection of signs

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

Clause 227A of the *Regulation* provides:

Signs on development sites

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

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

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

Note: If *Council* is appointed as the *PCA* it will provide the sign to the *principal contractor* or *owner builder* who must ensure that the sign is erected and maintained as required by Clause 98A and Clause 227A of the *Regulation*.
Standard Condition: D12 (Autotext DD12)

D.4 Toilet Facilities

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

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

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

In this condition:

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

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

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

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

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

Standard Condition: D13 (Autotext DD13)

D.5 Erosion and Sediment Controls – Installation

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

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

Where there is any conflict The Blue Book takes precedence.

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

Note: The “Do it Right On Site, Soil and Water Management for the Construction Industry” publications can be 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.6 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)

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

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

- ☐ Unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- ☐ Given at least 2 days' notice to the council of the person's intention to commence the erection of the building.

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

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

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

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

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.7 Dilapidation Reports for Existing Buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration as determined by a Structural Engineer.

These properties must include (but is not limited to):

No. 2 & 6 Cove Street

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

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by S81A(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

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

Standard Condition: D4 (Autotext DD4)

D.8 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)

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 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 (Autotext EE2)

E.3 Requirement to notify about new evidence

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

Standard Condition: E4 (Autotext EE4)

E.4 Critical Stage Inspections

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

Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*.

Critical stage inspections means the inspections prescribed by the *Regulations* for the purposes of section 109E(3)(d) of the *Act* or as required by the *PCA* and any PCA Service Agreement.

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

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

Standard Condition: E5 (Autotext EE5)

E.5 Hours of Work –Amenity of the neighbourhood

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

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

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

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

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

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

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.6 Public Footpaths – Safety, Access and Maintenance

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

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any work.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect 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.7 Maintenance of Environmental Controls

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

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

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

Standard Condition: E11

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

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

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

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

- g) Flood protection measures are in place confirming location, height and capacity.

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

Standard Condition: E20 (Autotext EE20)

E.10 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)

E.11 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 (Autotext EE31)

E.12 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 (Autotext EE32)

E.13 Asbestos Removal

Where hazardous material, including bonded or friable asbestos has been identified in accordance with condition B6 above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

- 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.14 Classification of Hazardous Waste

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

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

E.15 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with condition E 40 above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

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

E.16 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.17 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.18 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 50mm 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.19 Replacement/Supplementary trees which must be planted (amended by DA533/2017/2)

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2015). The replacement tree shall be planted in *deep soil landscaped area* and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting/Location	Container Size/Size of Tree (at planting)	Maximum Dimensions at Maturity (metres)
2 x <i>Olea europea</i> var. <i>europea</i> (European Olive)	Front yard	400 litres each	5 x 4
2 x <i>Olea europea</i> var. <i>europea</i> (European Olive)	Rear yard	400 litres each	5 x 4
2 x <i>Phoenix robellini</i> (Dwarf Date palm) OR 2 x <i>Howea forsteriana</i> (Kentia palm)	Eastern side courtyard	100 litres each	Maximum height 8 x 3 each

The project arborist shall document compliance with the above condition.

E.20 Level changes in the vicinity of trees

No level changes shall occur within the specified radius from the trunks of the following trees.

Council Ref No.	Species	Radius from Trunk (metres)
12	<i>Araucaria columnaris</i> (Cook Island pine)	6

The project arborist shall document compliance with the above condition.

E.21 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)
12	<i>Araucaria columnaris</i> (Cook Island pine)	6

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 50mm 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.22 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;

- the location and type of monitoring systems to be utilised;
- recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the *professional engineer*; and
- 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 (Autotext EE12)

E.23 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.24 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 (Autotext EE14)

E.25 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.26 Fisheries NSW Condition of Consent

Appropriate erosion and sediment control measures are to be used during construction of the seawall to mitigate potential flow on turbidity related impacts to the adjoining waterway.

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)

F.2 Amenity Landscaping

The *owner* or *principal contractor* must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.), and remove the 5 existing Cocos palms located along the front boundary of the subject property and the 2 Cocos palms located within the front setback adjacent to the eastern side boundary prior to any occupation or use of the site.

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

F.3 Commissioning and Certification of Systems and Works

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

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

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

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

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

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

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

Standard Condition: F7 (Autotext FF7)

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* (amended by DA533/2017/2)

All BASIX commitments must be effected in accordance with the BASIX Certificate No. **A4728289**.

Note: Clause 154B(2) of the *Environmental Planning and 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 (Autotext HH7)

H.2 Landscaping

- a) 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.
- 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 (Autotext HH12)

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

I.1 Maintenance of BASIX Commitments (amended by DA533/2017/2)

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. A4728289.

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 Maintenance of Landscaping

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

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

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

Note: This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality. Owners should have regard to the amenity impact of trees upon the site and neighbouring land. Further, drought proof vegetation being native species endemic to the immediate locality is encouraged. Suggested native species endemic to the immediate locality are listed in the Brochure Titled "Local Native Plants for Sydney's Eastern Suburbs" published by Woollahra, Waverley, Randwick and Botany Bay Councils.
Standard Condition: I25

I.3 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 $L_{A90, 15 \text{ minute}}$ 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

I.4 Public view corridor (inserted by DA533/2017/2)

To retain and restore view corridors between the street and the harbour, any landscaping located within the side setbacks to the south of the front elevation shall be a maximum mature height of 2m and any landscaping located within the side setbacks to the north of the front elevation shall be a maximum mature height of 1m, all remaining proposed landscaping within the front setback shall not exceed a maximum height of 5m at maturity.

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 (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 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 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 (Autotext KK5)

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 (Autotext KK6)

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 (Autotext KK7)

K.6 Asbestos Removal, Repair or Disturbance

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

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

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

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

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

Standard Advising: K8 (Autotext KK8)

K.7 Lead Paint

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

Applications, or AS 4361.2–1998, Guide to Lead Paint Management—Residential and Commercial Buildings.

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

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

Standard Advising: K9 (Autotext KK9)

K.8 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Ms T Ward, Assessment Officer, on (02) 9391 7016.

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.9 Release of Security

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

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

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

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

Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the Bond monies held by Council for these works will be released

upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

Note: The Application for Refund of Security form can be downloaded from http://www.woollahra.nsw.gov.au/_data/assets/pdf_file/0004/76405/Refund_of_Security_Form.pdf