

Annexure B**DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF
CONSENT****Development Application No:** DA-416/2021/1

Development: Seniors housing development comprising the adaptive reuse of the existing dwellings on the site and alterations / additions to the dwellings to accommodate 6 units and multi-level underground parking.

Lot 3 in DP316390 and Lot B in DP186880 and Lot 1 in DP135110 also known as Nos.53 and 55 Drumalbyn Road, Bellevue Hill

Schedule of Modifications:

Date approved	Modification Application Number	Decision maker (Land and Environment Court or relevant council)	Proceedings Name and Number (if applicable)
28 September 2023	DA/416/2021/2	Land and Environment Court	2023/168554

Date of determination: 11 January 2023**Date from which consent takes effect:** Date of determination**TERMINOLOGY**

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as 53-55 Drumalbyn Road, Bellevue Hill NSW 2023.

The conditions of consent are as follows:

DEFERRED COMMENCEMENT - (S4.16(3) OF THE ACT, CL.95 OF THE REGULATION)

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

1. Geotechnical Report

- (a) Subsurface geotechnical investigations of both No. 53 and No. 55 Drumalbyn Road (including a minimum of 4 boreholes) are to be carried out to determine the depth and strength of the sub-surface layers within those areas of the site which are proposed to be retained by contiguous pile retaining systems. A copy of the results of the subsurface investigation are to be provided to Council's Team Leader Development Engineering.
- (b) A Report shall be prepared by a Chartered Professional Geotechnical Engineer in accordance with Council's document "*Guidelines for Preparation of Geotechnical and Hydrogeological Reports*" taking into consideration the sub-surface geotechnical investigations referred to in deferred commencement condition 1(a) and include:
 - (i) completed shoring design;
 - (ii) 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 and submitted to Council's Development Engineer for further assessment
- (c) The report referred to in deferred commencement condition 1(b)(ii) must be certified by an appropriately qualified engineer confirming:
 - (i) that the subsurface layers within the areas of the site which are proposed to be retained by contiguous pile retaining systems are able to be retained;
 - (ii) 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.
 - (iii) appropriate support and retention to ensure there will be no adverse impact on the existing dwellings on 53 and 55 Drumalbyn Road, surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).
 - (iv) foundation waterproofing will be provided 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.
 - (v) waterproofing of all below ground structures to prevent excessive entry of all groundwater such that no on-going dewatering of the site is required
 - (vi) design consideration for the stability of all footings located near the cut/slopes. In particular, global stability assessments considering temporary (during construction) and permanent loading conditions shall be included in the report.

- (vii) any piles are socketed to a depth of at least one pile diameter below the adjacent final excavation level;
- (viii) any excavation adjacent to the piled shoring system is to be covered with reinforced shotcrete suitably attached to the exposed concrete shore piles;
- (ix) the maximum exposed depth of excavation is to be 2.5m without shotcrete protection, and

must:

- (i) ensure detection of any settlement associated with temporary and permanent works and structures,
- (ii) detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),
- (iii) ensure detection of vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
- (iv) ensure detection of groundwater changes calibrated against natural groundwater variations,
- (v) detail the location and type of monitoring systems to be utilised,
- (vi) detail the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
- (vii) detail recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- (viii) detail a contingency plan;
- (ix) detail recommended periodic and frequent inspections of the progress of the excavation by an experienced geotechnical engineer, and
- (x) detail the strategy to ensure that any gaps formed between the piles will be repaired within one day of observing the gaps.

2. Geotechnical investigation methodology

Prior to the carrying out of the investigation works referred to in condition 1., the Applicant is to provide Council's team leader development assessment, with a methodology plan and report confirming how the geotechnical investigations are to be carried out.

3. Construction methodology plan and report

The applicant is to complete a Construction Methodology Plan and Report which includes the results of the geotechnical investigation, shoring design and includes the:

- (a) design of the piling system to be utilised for the construction of the development; and
- (b) details of the type of piling rig to be used to ensure the protection of the heritage items on the Property.

A copy of the Construction Methodology Plan and Report is to be certified by an appropriately qualified engineer(s) and provided to Council's Team Leader Development Assessment.

Period within which evidence must be produced

The Applicant must produce evidence to Council sufficient enough to enable it to be satisfied as to those matters above within 2 years of the date of determination.

If the evidence is not produced within 2 years of the date of determination this deferred commencement consent is of no effect, the consent does not operate and no Construction Certificate can be issued. No development can lawfully occur under this consent unless it operates.

Note: Nothing in the *Act* prevents a person from doing such things as may be necessary to comply with this condition. (See section 4.16(3) of the *Act*)

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

Standard Condition: A3

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and 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 4.15 of the *Act*.

Standard Condition: A1

A.2 Definitions

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

Applicant means the applicant for this consent.

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

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

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

Council means Woollahra Municipal Council

Court means the Land and Environment Court

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

Stormwater drainage system means all works, facilities and documentation relating to:

- the collection of stormwater,
- the retention of stormwater,
- the reuse of stormwater,
- the detention of stormwater,

- the controlled release of stormwater; and
- connections to easements and public stormwater systems.

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

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

PC means the Principal Certifier 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*.

Regulations means the *Environmental Planning and Assessment Regulations 2021*

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.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

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

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

Standard Condition: A2

A.3 Approved Plans and Supporting Documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below as submitted by the Applicant unless modified by any following condition.

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

Reference	Description	Author/Drawn	Date(s)
DA031, Rev 03	Demolition Plan	Bureau SRH Architecture	5/05/2022
DA032, Rev 01	Demolition Plan - Garage and Ground Floor Level		5/05/2022
DA033, Revision 01	Demolition Plan - Level 1 and Roof Plan		5/05/2022
DA034, Revision 03	Bulk Excavation Plan		29 September 2022
DA035, Revision 01	Bulk Excavation – Plans 1		29 September 2022
DA036, Revision 01	Bulk Excavation – Plans 2		29 September 2022
DA037, Revision 01	Bulk Excavation – Plans 3		29 September 2022
DA101, Rev 07	Building A / Basement 1		25 November 2022
DA102, Rev 07	Building A / Lower Ground Floor		25 November 2022
DA103, Rev 06	Building A / Ground Floor		9 September 2022
DA104, Rev 06	Building A / Level 1		9 September 2022
DA105, Rev 06	Building A / Level 2		9 September 2022
DA106, Rev 06	Building A / Roof		9 September 2022
DA110, Rev 06	Building A / Roof – Building B / Ground Floor		9 September 2022
DA111, Rev 06	Building B / Level 1		9 September 2022
DA112, Rev 06	Building B / Level 2		9 September 2022
DA113, Rev 06	Building B / Roof Plan		9 September 2022
DA150, Rev 04	Area calculations		9 September 2022
DA151, Rev 02	Landscaped Area and Deep Soil		9 September 2022
DA200, Rev 06	Elevation – Building A / North West		9 September 2022
DA201, Rev 06	Elevation – Building A + Building B / South East		9 September 2022
DA202, Rev 06	Elevation – Building A / North East		9 September 2022
DA203, Rev 06	Elevation – Building A / South West		9 September 2022
DA204, Rev 06	Elevation – Building B / North East		9 September 2022
DA205, Rev 06	Elevation – Building B / South West		9 September 2022
DA206, Rev 05	Elevation – Building B / North West		9 September 2022
DA300, Rev 06	Sections – Building A + Building B / Long Section		9 September 2022
DA301, Rev 03	Sections – Building A / Short Section		25 November 2022
DA302, Rev 02	Sections – Building B / Short Section		29 September 2022
-	Traffic and Parking Impacts Assessment	Hemanote Consultants	September 2021
13587-GR-1-1	Geotechnical Report	Alliance Geotechnical	31 August 2021
13587-GR-2-1- Rev2	Geotechnical Response	Alliance Geotechnical	1 Jun 2022
13587-GR-4-1- Rev1	Letter in response to revision of Clause 6.2 of the Woollahra Local Environmental Plan	Alliance Geotechnical	30 September 2022
13587-GR-5-1- Rev)	Geotechnical & Hydrogeological Investigation Report	Alliance Geotechnical	9 November 2022
21089	Excavation Methodology Report	Bureau SRG – Structural Engineering	05/08/2022
SRPT-22233.01 B	Structural Design Report	Lindsay & Associates	3 May 2022
	Structural Design Report	Bureau SHR	5 August 2022
	Construction Methodology Drawings	Demlakian	

S100 – P3	Construction Methodology Notes & Typical Details		21 November 2022
S101 – P3	Shoring & Excavation Sequence Building B		21 November 2022
S102-P3	Shoring & Excavation Sequence Building A Lower level		21 November 2022
S103-P3	Shoring & Excavation Sequence Building A Lower Level		21 November 2022
S104-P3	Sections – Sheet 1		21 November 2022
S105-P3	Sections – Sheet 2		21 November 2022
2000219	Flood Risk Management Report	Torinex Consulting	2 November 2021
21/100	Stormwater Management Plan	ITM Design P/L	27.10.22
H-DA2-00-Rev D			27.10.22
H-DA2-01-Rev D			15.11.22
H-DA2-02-Rev F			27.10.22
H-DA2-03-Rev D			27.10.22
H-DA2-04-Rev D			27.10.22
H-DA2-05 Rev D			27.10.22
2022.04.53-55 Revision D	Building A Basement	Ben Kaye Garden Design	August 2022
2022.04.53-55 Revision D	Building A Lower Ground		August 2022
2022.04.53-55 Revision D	Building A Ground Floor		August 2022
2022.04.53-55 Revision D	Building A Level 1		August 2022
2022.04.53-55 Revision D	Building A Level 2		August 2022
2022.04.53-55 Revision D	Building A Roof Top		August 2022
2022.04.53-55 Revision D	Building B Ground Floor		August 2022
2022.04.53-55. Revision D	Building B Level 1		August 2022
	Arboricultural Impact Assessment	George Palmer Botanic Pty Ltd	August 2022
	Tree table		August 2022
	Retained significant items schedule	Zoltan Kovacs Architect	August 2022
	Schedule of conservation		6 June 2022
	Construction Impact Assessment and Management Plan	George Palmer, Botanic Pty Ltd	September 2022
	Site Waste Minimisation and Management Plan		17 September 2021
	Construction Management Plan	by Bureau SRH Architecture	17 September 2021
	Structural Construction Methodology Statement	Bureau SRH Architecture	29 September 2022

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 4.17(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

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 4.17(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A5

A.4 Ancillary Aspects of Development (section 4.17(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* (2012) unless expressly provided otherwise by these conditions at the Owner's expense.

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

Standard Condition: A8

A.5 No Underpinning works

This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties.

A.6 Approved Amended (section 4.56) Plans and Supporting Documents

Those acting upon or under this amended consent must carry out all work and maintain the use and works in accordance with the approved plans and supporting documents listed in the original consent, as amended by the amended 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	Date	Rev
S4.56 031	Demolition Plan	Bureau SRH Architecture	28/03/2023	A
S4.56 033	Demolition Plan – Level 1 and Roof Plan		28/03/2023	A
S4.56 034	Bulk Excavation 3D		17/08/2023	B
S4.56 035	Bulk Excavation – Plans 1		18/08/2023	B
S4.56 036	Bulk Excavation – Plans 2		17/08/2023	B
S4.56 037	Bulk Excavation – Plans 3		17/08/2023	B

S4.56 038	Backfill Volume Diagram		17/08/2023	A
S4.56 100	Building A/ Basement 2		28/03/2023	A
S4.56 101	Building A/ Basement 1		28/03/2023	A
S4.56 102	Building A/ Lower Ground Floor		28/03/2023	A
S4.56 103	Building A/ Ground Floor		28/03/2023	A
S4.56 104	BUILDING A / LEVEL 1		16/08/2023	C
S4.56 105	BUILDING A / LEVEL 2		16/08/2023	C
S4.56 106	BUILDING A / ROOF - BUILDING B / GROUND FLOOR		16/08/2023	C
S4.56 110	BUILDING B / LEVEL 1		16/08/2023	B
S4.56 111	Building B/ Level 2		28/03/2023	A
S4.56 112	Building B/ Level 3		28/03/2023	A
S4.56 113	Building B/ Roof Plan		28/03/2023	A
S4.56 150	Area Calculations		17/08/2023	B
S4.56 151	Landscaped Area + Deep Soil		17/08/2023	B
S4.56 200	ELEVATION - BUILDING A / NORTH WEST		16/08/2023	B
S4.56 201	ELEVATION - BUILDING A + BUILDING B / SOUTH EAST		16/08/2023	B
S4.56 201	ELEVATION - BUILDING A + BUILDING B / SOUTH EAST		16/08/2023	B
S4.56 204	ELEVATION - BUILDING B / NORTH EAST		16/08/2023	B
S4.56 300	SECTIONS - BUILDING A + BUILDING B / LONG SECTION		16/08/2023	B
2022.04.53-55. DRUMALBYN.A0.8.ABL	Landscape Building A Basement	Ben Kaye Garden Design	August 2023	B

	Landscape Building A Ground Floor			
	Landscape Building A Level 1			
	Landscape Building A Level 2			
	Landscape Building B Ground Floor			
	Landscape Building B Level 1			
	Landscape Building B Level 2			
	BASIX Certificate			04
	Structural Construction Methodology	Bureau SRH	13 March 2023	

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.)

Standard Condition: A6

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 6.6 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 Principal Certifier, and Notice of Commencement under the *Act*.

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

Standard Condition: B1

B.2 Noise Control Objectives during Demolition Works

To assist in managing impacts of noise from the demolishing of the existing dwelling and outbuilding on residences and other sensitive land uses, it is recommended that the *NSW Department of Environment & Climate Change: Construction Noise Guideline* be applied to the site to provide a quantitative and qualitative assessment for evaluating performance and compliance of resultant noise from demolishing works of the existing dwelling and outbuilding. In particular reference is made to Table 2 of the *NSW Department of Environment & Climate Change: Construction Noise Guideline* which sets out management levels for noise at residences and other sensitive land uses.

B.3 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.4 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.5 Establishment of Tree Protection Zone (TPZ) Fence

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	Tree Location	Fence Radius from Centre of Trunk (Metres)
TB	<i>Callistemon viminalis</i> (Weeping Bottle Brush)	In accordance with Figure 3 of the Arboricultural Impact Assessment and Management Plan prepared by George Palmer – Botanics Tree Wise People Pty Ltd dated September 2022	Extent of grass verge
TC	<i>Callistemon viminalis</i> (Weeping Bottle Brush)		Extent of grass verge
T1	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)		2.4
T3	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)		3
T4	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)		3.6
T5	<i>Plumeria acutifolia</i> (Frangipani)		2.4
T6	<i>Camellia sasanqua</i> (Camellia)		2.4
T7	<i>Howea forsteriana</i> (Kentia Palm)		2.4
T8	<i>Howea forsteriana</i> (Kentia Palm)		2.4
T9	<i>Ficus lyrata</i> (Fiddle wood Ficus)		2.4
T10	<i>Howea forsteriana</i> (Kentia Palm)		2.4
T11	<i>Syagrus romanzoffiana</i> (Cocos Palm)		3.6
T13	<i>Howea forsteriana</i> (Kentia Palm)		3.6
T14	<i>Phoenix rupicola</i> (Cliff Phoenix palm)		3.6
T15	<i>Phoenix rupicola</i> (Cliff Phoenix palm)		3.6
T16	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	In accordance with Figure 3 of the Arboricultural Impact Assessment and Management Plan prepared by George Palmer – Botanics Tree Wise People Pty Ltd dated September 2022	2.4
T20	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)		2.4
T21	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)		2.4
T22	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)		2.4
T23	<i>Persia americana</i> (Avocado)		3.6
T24	<i>Plumeria acutifolia</i> (Frangipani)		2
T27, T28, T29	<i>Phoenix roebelenii</i> (Dwarf date palm)		2m each
T30	<i>Persia americana</i> (Avocado)		2.4

T33	Backhousia citriodora (Lemon Scented Myrtle)		North western side boundary
T37 - 42	Archontophoenix cunninghamiana (Bangalow Palm)		2.4
T43 T44	Archontophoenix cunninghamiana (Bangalow Palm)		2.4
T45	Dyopsis lutescens (Golden Cane Palm)		2.4
T51	Cypress X leylandii (Leyland Cypress)		3.6
T57	Persia americana (Avocado)		3.6
T58 T59	Celtis occidentalis (Hackberry)		4.8
T61	Archontophoenix cunninghamiana (Bangalow Palm)		2.4
T62	Archontophoenix cunninghamiana (Bangalow Palm)		2.4

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.

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) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- e) 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.
- f) The site supervisor 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.

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

B.6 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
TB	<i>Callistemon viminalis</i> (Weeping Bottle Brush)	Extent of grass verge	Proposed stormwater pipe to kerb
TC	<i>Callistemon viminalis</i> (Weeping Bottle Brush)	Extent of grass verge	Proposed stormwater pipe to kerb
T1	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	2.4	Proposed soft landscaping
T3	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	3	Proposed soft landscaping
T4	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	3.6	Proposed soft landscaping
T5	<i>Plumeria acutifolia</i> (Frangipani)	2.4	Proposed soft landscaping and proposed alterations
T6	<i>Camellia sasanqua</i> (Camellia)	2.4	Proposed soft landscaping and proposed alterations
T7	<i>Howea forsteriana</i> (Kentia Palm)	2.4	Proposed soft landscaping and proposed alterations
T8	<i>Howea forsteriana</i> (Kentia Palm)	2.4	Proposed soft landscaping and proposed alterations
T9	<i>Ficus lyrata</i> (Fiddle wood Ficus)	2.4	Proposed soft landscaping and proposed alterations
T10	<i>Howea forsteriana</i> (Kentia Palm)	2.4	Proposed soft landscaping and proposed alterations
T11	<i>Syagrus romanzoffiana</i> (Cocos Palm)	3.6	Proposed soft landscaping
T13	<i>Howea forsteriana</i> (Kentia Palm)	3.6	Proposed extensions and soft landscaping
T14	<i>Phoenix rupicola</i> (Cliff Phoenix palm)	3.6	Proposed soft landscaping
T15	<i>Phoenix rupicola</i> (Cliff Phoenix palm)	3.6	Proposed soft landscaping
T16	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	2.4	Proposed soft landscaping
T20	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	2.4	Proposed extensions and soft landscaping
T21	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	2.4	Proposed soft landscaping
T22	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	2.4	Proposed soft landscaping

T23	<i>Persia americana</i> (Avocado)	3.6	Proposed soft landscaping
T24	<i>Plumeria acutifolia</i> (Frangipani)	2	Proposed soft landscaping
T27, T28, T29	<i>Phoenix roebelenii</i> (Dwarf date palm)	2m each	Proposed soft landscaping
T30	<i>Persia americana</i> (Avocado)	2.4	Proposed soft landscaping
T33	<i>Backhousia citriodora</i> (Lemon Scented Myrtle)	North western side boundary	Nil
T37 - 42	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	2.4	Proposed soft landscaping
T43 T44	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	2.4	Proposed soft landscaping
T45	<i>Dypsis lutescens</i> (Golden Cane Palm)	2.4	Proposed soft landscaping
T51	<i>Cypress X leylandii</i> (Leyland Cypress)	3.6 for excavation 2.4m for walkway	Proposed excavation for Building A Ground floor to be no closer than 3 metres from the centre of the trunk of the tree. Construction of proposed walkway to be above existing ground level within 2.4 metres from the centre of the trunk of the tree.
T57	<i>Persia americana</i> (Avocado)	3.6	Proposed soft landscaping
T58 T59	<i>Celtis occidentalis</i> (Hackberry)	4.8	Proposed soft landscaping
T61	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	2.4	Proposed soft landscaping and proposed alterations
T62	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	2.4	Proposed soft landscaping and proposed alterations

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

B.7 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 and supervision	Compliance documentation and photos shall be included
Prior to the demolition of any building or construction and prior to the commencement of any development work	<ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist shall install or supervise the installation of tree protection fencing.
During any development work	<ul style="list-style-type: none"> • The project arborist shall supervise all demolition and excavation works within the Tree Protection Zones of nominated trees listed in this consent. • The project arborist shall ensure no roots equal to or greater than 40mm diameter are severed during the excavation for and installation of the proposed stormwater pipe between Trees B and C.
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none"> • The project arborist shall supervise the dismantling of tree protection measures • After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.

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.8 Aboriginal Objects – Unexpected Findings

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.9 Aboriginal Heritage Due Diligence Responsibilities

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.

B.10 Aboriginal Heritage Induction

- (a) All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974;
- (b) An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council or by a heritage consultant with Aboriginal heritage expertise, if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and
- (c) Documentary evidence demonstrating compliance with a. and b. above being submitted to Council and the Principal Certifier.

B.11 Monitoring

A suitably qualified archaeologist and a representative of the La Perouse Local Aboriginal Land Council is to be present to monitor the removal of any fixtures or other attachments from the sandstone outcrop at the rear of the study area, after the dismantling of the remainder of the structures not attached to the rock.

C. CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE

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

The Certifying Authority must not issue any certificates under section 6.4 of the Act 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 <i>Building and Construction Industry Long Service Payments Act 1986</i>			

Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit - making good any damage caused to any property of the Council	\$307,190	No	T115
Tree Damage Security Deposit – making good any damage caused to any public tree	\$4000.00	No	T114
Infrastructure Works Bond -completing any public work required in connection with the consent.	\$49,500	No	T113
Infrastructure Works Bond – remedying any defects in any public work that arise within 6 months after the work is completed	\$49,500	No	T113
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au			
Development Levy (section 7.12)	\$129,225.26 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Tree Management Inspection Fee	\$221.34	No	T45
Public Road/Footpath Infrastructure Inspection Fee	\$1,230	No	
Security Administration Fee	\$215	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$ 541,082 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 Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website www.longservice.nsw.gov.au or the Long Service Corporation on 131 441.

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 7.12 levy (formerly known as 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 levy.

Do you need HELP indexing the levy?

Please contact Council's Customer Service Team on ph 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the *Act* and could void any such certificate (eg Construction Certificate, Subdivision Certificate, or Occupation Certificate).

Deferred or periodic payment of section 7.12 levy (formerly known as 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 7.12 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 7.12 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.2 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX No **1237642M_04** 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".
Standard Condition: C7

C.3 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 as the road authority, for the following infrastructure works prior to the issuing of any relevant Construction Certificate. The infrastructure works must be carried out at the applicant's expense:

2. Road & Footpath Works

- a) The removal of all redundant vehicular crossings including layback and gutter and reinstated into Council's standard kerb and gutter and nature strip in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works.
- b) The construction of a new 6.0m wide vehicular crossing in accordance with Council's standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. 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 aligned to the centreline of the internal driveway at the property boundary. Design longitudinal profiles along each edge/side of the proposed driveway must be submitted for assessment.
- c) The reconstruction of the existing concrete footpath for the full frontage of the site in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works. Detailed long section and cross section at every 5 metres interval shall be prepared by a suitably qualified and experienced civil engineer for assessment.
- d) The reinstatement of all damaged kerb and gutter and road pavement to match existing.
- e) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

3. Drainage works

- a) The construction of a new kerb inlet pit with 1.8m precast lintel for the proposed stormwater connection to Council's underground system in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works. The new kerb inlet pit shall be constructed within the frontage of the site and located at a minimum distance of 0.5m from any vehicular crossing. The grate shall be Class D, "bicycle friendly" type.
- b) The construction of a new junction pit with the extension of Council's in-ground system by using minimum Class 4, 375mm RRJ steel reinforced concrete pipes (RCP) in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. Detailed longitudinal section of the proposed 375mm RCP shall be prepared by a suitably qualified civil engineer. Trench details shall be included in the design drawings to comply with Council's Specification and AS3725.
- c) The developer shall be responsible for carrying out all service investigations to allow a gravity connection.

4. Bond

- a) A bond of \$49,500 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date.
- b) Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or completing the works if they do not meet Council's requirements.
- c) The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements.

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 relevant Construction Certificate. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act 1993* approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.

Note: See *section K. Advisings* of this consent titled *Roads Act Application*.
Standard Condition: C13

C.4 Provision for Energy Supplies

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

Any required electricity pillar and/or substation must be located within the boundaries of the site.

Where an electricity pillar and/or electricity substation is required within the site but no provision has been made to place it within the building and such substation has not been detailed upon the approved development consent plans an application under section 4.55 of the *Act* is required to be submitted to Council. Council will assess the proposed location of the required electricity pillar and/or substation.

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

Where the electricity pillar and/or substation is required, the Construction Certificate plans and specifications must provide:

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

Note: If the electricity pillar and/or substation is not located within the building its location, screening vegetation, all screen walls or fire separating walls must have been approved by the grant of development consent or amended development consent prior to the issue of any *Construction Certificate* for those works. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Certifying Authority prior to issue of the Construction Certificate. The Certifying Authority must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

Note: This condition has been imposed because the application fails to provide sufficient detail (either by plans or by the Statement of Environmental Effects) demonstrating that provision has been made to Austgrid's satisfaction for the provision of electricity supply to the building. Nevertheless, Council has no reason to believe that provision cannot be reasonably made for electricity to service the development.

Note: Where it is proposed to shield any booster connection or any building from any electricity pillar and/or substation pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994 or by fire resisting construction under the BCA respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent pursuant to clause 145 of the *Regulation*. The Applicant must lodge with Council details for any such construction pursuant to section 4.55 of the *Act* to allow assessment under section 4.15 of the *Act*.

Note: Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard AS/NZS 2890 (Set)-2004 *Parking Facilities Set whether such driveways service the site or any adjoining land*.
Standard Condition: C21

C.5 Soil and Water Management Plan – Submission and Approval

The Principal Contractor or Owner-builder must submit to the Certifying Authority a soil and water management plan complying with:

- f) *“Do it Right On Site, Soil and Water Management for the Construction Industry”* published by the Southern Sydney Regional Organisation of Councils, 2001; and
- g) *“Managing Urban Stormwater - Soils and Construction”* 2004 published by the NSW Government (*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 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”* publication can be downloaded from www.woollahra.nsw.gov.au, and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm.

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.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, hydrogeological, 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 Engineer Certification

This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties.

Any structural design is not to incorporate any underpinning works which encroaches outside the boundaries of the subject property. Engineer certification to this effect shall be submitted to the Certifying Authority prior to issue of any Construction Certificate.

C.8 Parking Facilities

The Construction Certificate plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3:2015 *Parking Facilities - Bicycle Parking Facilities*, AS/NZS 2890.1:2004 *Parking Facilities: Off-Street Car Parking*, AS/NZS 2890.6 *Parking Facilities - Off-Street Parking for People with Disabilities* and AS 2890.2:2018 *Parking Facilities -Off-Street Parking: Commercial Vehicle Facilities* respectively.

The plans must satisfy the following requirement(s):

- h) The provision of 2m x 2.5m sight triangle, clear of any obstructions to visibility, along the exit side of the driveway, to comply with Clause 3.2.4 and Figure 3.3 of AS2890.1-2004;
- i) Signage and pavement marking be provided at access point to indicate 'IN/ENTRANCE' and 'OUT/EXIT' for the two-way two-lane access driveway. All signs should be provided wholly within the property boundary;
- j) Accessible parking space and shared area be provided in compliance with AS/NZS 2890.6:2009;
- k) Signage and pavement marking be provided for the waiting bay. The waiting bay should have a minimum length of 6m and a maximum gradient of 1 in 20 (5%).

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

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

Standard Condition: C45 (Autotext: CC45)

C.9 Stormwater Management Plan

Prior to issue of any Construction Certificate, detailed *Stormwater Management Plan* prepared by a suitably qualified and experienced civil engineer shall be submitted for approval by the Certifying Authority. The *Stormwater Management Plan* must detail:

- l) General design in accordance with stormwater management plans referred to in condition 1.4 of this consent other than amended by this and other conditions;
- m) All below ground structures are to be fully tanked and/or appropriately designed to ensure subsoil drainage / seepage water is NOT collected and discharged into Council's stormwater network to comply with Chapter E.2.2.5 and E2.2.10 of Council's DCP;
- n) The discharge of stormwater runoff from the site by gravity to the proposed kerb inlet pit located within the frontage of the site by gravity;
- o) The installation of 6 x 690mm PSORB Stormfilter Cartridges and 1 x OceanGuard by

Ocean Protect to achieve the minimum the water quality targets for stormwater treatment system stipulated in Chapter E2.2.3 of Council's DCP;

- p) The installation of basement pumpout system with minimum storage capacity of 3m³. The system must be designed to comply with AS3500.3. Full supporting calculations shall be provided in the detailed stormwater management plan;
- q) The installation of an interceptor drainage system to capture and convey all stormwater runoff from the upstream neighbouring property(s) to the public drainage system in Drumalbyn Road for storm events up to and including the 1% AEP. This intercepting drainage system must be separated to the property drainage system and is to comprise suitable inlet pits, grated drains, pipes and channels. Supporting calculations and detailed cross sections at critical locations and at every 5 metres intervals shall be provided in the detailed stormwater management plans demonstrating compliance with this requirement;
- r) Compliance the objectives and performance requirements of the BCA; and
- s) Compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

OSD Requirements

The installation of an on-site detention (OSD) system with the minimum Site Storage Requirements ("SSR") of 55.4m³. The Permissible Site Discharge (PSD) of the OSD system shall be 52.2 l/s. The total PSD discharging to the kerb inlet pit must not exceed 63 l/s. The *Stormwater Management Plan* must also include the following specific requirements:

Layout plan

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

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

On-site Detention (OSD) details:

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

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* (2012).

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

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

C.10 Flood Protection

The Construction Certificate plans and specifications, required by clause 139 of the Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing:

- t) The proposed ground floor car parking area shall be protected by a physical threshold set at or above the flood planning level of RL42.3m AHD.
- u) The proposed lift entry shall be protected by a physical threshold set at or above the flood planning level of RL42.1m AHD.
- v) The proposed eastern corner pedestrian entry shall be protected by a physical threshold set at or above the flood planning level of RL42.45m AHD.
- w) All below ground construction shall be fully tanked.
- x) Flood compatible materials shall be used for all flood exposed construction.
- y) All flood exposed electrical wiring and equipment shall be waterproofed.
- z) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.

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

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

C.11 Light and Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the BCA or clause 3.8.4 and 3.8.5 of the BCA Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#).

If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert *evidence of suitability*.

This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the *Regulation* requires compliance with the BCA. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier*/Council is satisfied that compliance

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

Standard Condition C59

C.12 Sound Attenuation of Mechanical Plant

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must detail the sound attenuation works required to the mechanical plant and associated equipment to ensure that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and associated equipment is operating will not exceed the *background noise level*.

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: 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
2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals www.aaac.org.au.

Standard Condition: C61

C.13 Acoustic Certification of Mechanical Plant and 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:

3. **Australian Acoustical Society**—professional society of noise-related professionals
www.acoustics.asn.au
4. **Association of Australian Acoustical Consultants**—professional society of noise related professionals www.aaac.org.au.

Standard Condition: C62

C.14 Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)

The basement carpark in which vehicles powered by internal combustion engines are parked, serviced or operated are required to comply with Australian Standard 1668.2-2012. In general, air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.

The basement carpark must be naturally ventilated or provided with a combination of both supply and exhaust mechanical ventilation. The applicant is to determine the method of ventilation of the basement carpark and provide details to the *Certifying Authority* accordingly. Except as varied, the basement carpark shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with AS1668.2-2012.

C.15 Ventilation - Internal Sanitary Rooms

All internal sanitary rooms and laundry facilities not provided with natural ventilation must be provided with a system of mechanical exhaust ventilation in accordance with *Minimum Exhaust Ventilation Flow Rates of AS 1668.2-2012*. Details of any proposed mechanical ventilation system(s) being submitted with the *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* demonstrating compliance with AS1668 Parts 1 & 2.

C.16 Heritage – Schedule of Conservation Works

A Schedule of Conservation Works is to be prepared by a suitably qualified heritage architect detailing conservation work to be carried out on the elements of the buildings that are to be retained in situ. The Schedule is to specify the item and the work required to retain it in situ, with the appropriate protections during the construction phase of the project as well as the work to be undertaken prior to the completion of the project to retain its original appearance and significance. The Schedule is to be submitted to Council for approval prior to the issuing of the Construction Certificate.

C.17 Heritage – Schedule of Items for Salvage and Re-use

A Schedule of Items for Salvage and Re-use is to be prepared by a suitably qualified heritage architect detailing conservation work to be carried out on the elements of the buildings that are to be removed, stored and then reinstalled in a different location within the completed project. The Schedule is to specify the item and the work required to remove the item without damage, the method and location for its storage and the work to be done to the item for its re-use within the completed project. The Schedule is to be submitted to Council for approval prior to the issuing of the Construction Certificate.

C.18 Heritage – Archival Recording

An archival recording is to be made of the two houses, their gardens and their garages. The archival recording is to comprise photographs and measured drawings of the subject properties.

The photographic record is to consist of professionally-taken photographs, by a photographer experienced in such archival recording, in accordance with *Photographic Recording of Heritage Items Using Film or Digital Capture*, prepared by the NSW Heritage Office, 2006.

The measured drawings are to consist of plans of every level and a roof plan, elevations of every façade, sections consisting of one cross-section and one long-section per house and garage to record the details of construction for the floors and roofs of the houses. Also, detailed, large-scale drawings of the original bathrooms, detailed large-scale drawings of joinery such as doors, windows, skirtings and architraves, as well as the steel-framed windows of 55 Drumalbyn Road are to be included in the measured drawings.

The Archival recording is to be submitted to Council for approval prior to the issuing of the Construction Certificate.

In addition, a large-scale cross-section through the roof terrace of 55 Drumalbyn Road is to be made during the careful demolition of the servants' wing of the house to record the roof

terrace's construction and method of waterproofing. The terrace cross-section is to be submitted to Council prior to the issuing of the Occupation Certificate.

C.19 Tree Management Plan

The *Construction Certificate* plans and specifications shall 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 or transplant method statement.

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

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 4.17(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*, or
- b) to the erection of a temporary building.

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

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

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

D.2 Dilapidation Reports for existing buildings

Dilapidation surveys 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 applicable by a Structural Engineer.

These properties to be assessed by the Structural Engineer must include (but is not limited

to):

- a) **Nos.51, 57 and 59 Drumalbyn Road, Bellevue Hill; and**
- b) **No.107 Victoria Road, Bellevue Hill.**

The dilapidation reports must be completed and submitted to the *Certifying Authority* for approval. An approved copy of the reports shall be 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 Section 6.6(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

D.3 Adjoining Buildings Founded on Loose Foundation Materials

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

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

Standard Condition: D6

D.4 Construction Management Plan

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

The Principal Contractor or Owner must submit an application for approval of the CMP by Council's Traffic Engineer and pay all fees associated with the application.

The CMP must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:

- c) Detail the scope of the works to be completed including details of the various stages, e.g. demolition, excavation, construction etc. and the duration of each stage.
- d) Identify local traffic routes to be used by construction vehicles.
- e) Identify ways to manage construction works to address impacts on local traffic routes.
- f) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other

developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments.

- g) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- h) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access or reversing manoeuvres onto a public road and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.
- i) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- j) Provide for the standing of vehicles during construction.
- k) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- l) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- m) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.
- n) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.
- o) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
- p) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)
- q) Show the location of any proposed excavation and estimated volumes.
- r) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work shall only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.
- s) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).

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

Standard Condition: D9

D.5 Works (Construction) Zone – Approval and Implementation

A Works Zone may be required for this development. The Principal Contractor or Owner can apply for a works zone. If the works zone is approved the Principal Contractor or Owner must pay all fees for this Works Zone before it can be installed.

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

Note: The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Maritime Services under section 50 of the *Transport Administration Act 1988*.

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.

Standard Condition: D10

D.6 Security Fencing, Hoarding and Overhead Protection

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 4.17(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 Certifier 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 6.28 of the *Act*, to comply with the Building Code of Australia.

Clause 227A of the *Regulation* provides:

Signs on development sites

If there is a person who is the Principal Certifier 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 Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 98A and clause 227A of the *Regulation*.

Standard Condition: D12

D.7 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 SafeWork NSW requirements.
Standard Condition: D13

D.8 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” 2004 published by the NSW Government (*The Blue Book*).

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

Note: The International Erosion Control Association – Australasia (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” publication can be downloaded from www.woollahra.nsw.gov.au and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm

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

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

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

Standard Condition: D14

D.9 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6,

Division 6.3 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 Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier 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 Certifier 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 1.4 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 6.1 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 6.6(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, PC 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 6.6(2) of the *Act*.

Standard Condition: D15

D.10 Notification of Home Building Act 1989 requirements

- a) For the purposes of section 4.17(11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.
- b) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - In the case of work for which a Principal Contractor is required to be appointed:
 - the name and licence number of the Principal Contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that Act,
 - In the case of work to be done by an Owner-builder:
 - the name of the Owner-builder, and

- if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.
 - c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
 - d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the Building Code of Australia.
- Standard Condition: D17

D.11 Establishment of Boundary Location, Building Location and Datum

Prior to the commencement of any work the Principal Contractor or Owner-builder must ensure that a surveyor registered under the *Surveying and Spatial Information Act 2002* sets out:

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

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

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

Standard Condition: D18

D.12 Piezometers for the Monitoring of Ground Water Levels

The Principal Contractor must provide 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall. The piezometers are to be installed to monitor ground water levels (GWL) before and during all dewatering works for the construction phase.

The GWL monitoring wells and monitoring program must be maintained until the issue of the *Final Occupation Certificate*.

The GWL are to be regularly monitored during the course of the works as required by the work method statement for the control of GWL. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the GWL outside a safe range set by the work method statement for the control of GWL, corrective action must be undertaken under the direction of the professional engineer (hydrological/geotechnical engineer).

Standard Condition: D7 (Autotext DD7)

E. CONDITIONS WHICH MUST BE SATISFIED DURING ANY DEVELOPMENT WORK

E.1 Compliance with BCA and Insurance Requirements under the [Home Building Act 1989](#)

For the purposes of section 4.17(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 (BCA),
- b) in the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

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

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

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

E.2 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: *The Demolition of Structures*.

Standard Condition: E2

E.3 Compliance with Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier or Council on request.

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

E.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 Certifier.

Standard Condition: E4

E.4 Critical Stage Inspections

Critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the Principal Certifier 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 6.5 of the *Act* or as required by the Principal Certifier and any PC Service Agreement.

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

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

Standard Condition: E5

E.5 Hours of Work – Amenity of the Neighbourhood

- a) No *work* must take place on any Sunday or public holiday.
- b) No *work* must take place before 7am or after 5pm any weekday.
- c) No *work* must take place before 7am or after 1pm any Saturday.
- 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) piercing,
 - (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.

Reason: 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 a separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RMS and NSW 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 2017*.

Note: NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nqlg.htm

Standard Condition: E6

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 148B of the *Road Transport Act 2013*, section 138 of the *Roads Act 1993* or section 68 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.

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

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.

Standard Condition: E7

E.7 Tree Preservation

All persons must comply with the Woollahra DCP 2015, Chapter E3–Tree Management, 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 unless exempted by specific provisions. Works to be carried out within a 5 metre radius of any tree subject to the DCP require the prior written consent of Council.

General Protection Requirements

- a) There must be no excavation or work within the required Tree Protection Zone(s). The Tree Protection Zone(s) must be maintained during all development work.
- b) Where excavation encounters tree roots with a diameter exceeding 40mm excavation

must cease. The Principal Contractor must procure an inspection of the tree roots exposed by a qualified arborist. Excavation must only recommence with the implementation of the recommendations of the qualified arborist or where specific instructions are given by Council's Tree Management Officer in strict accordance with such Council instructions.

- c) Where there is damage to any part of a tree the Principal Contractor must procure an inspection of the tree by a qualified arborist immediately. The Principal Contractor must immediately implement treatment as directed by the qualified arborist or where specific instructions are given by Council's Tree Management Officer in strict accordance with such Council instructions. Any action taken must be in accordance with *Australian Standard AS 4373 "Pruning of Amenity Trees"* and *WorkCover NSW Code of Practice Amenity Tree Industry*.

E.8 Tree Preservation and Approved Landscaping Works

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

- a) The following trees must be retained:

- Trees on private land:

Council Ref No.	Species	Location	Dimension (metres)
T5	<i>Plumeria acutifolia</i> (Frangipani)	In accordance with Figure 3 of the Arboricultural Impact Assessment and Management Plan prepared by George Palmer – Botanics Tree Wise People Pty Ltd dated September 2022	6 x 4
T6	<i>Camellia sasanqua</i> (Camellia)		4 x 3
T7	<i>Howea forsteriana</i> (Kentia Palm)		7 x 3
T8	<i>Howea forsteriana</i> (Kentia Palm)		6 x 3
T9	<i>Ficus lyrata</i> (Fiddle wood Ficus)		6 x 3
T10	<i>Howea forsteriana</i> (Kentia Palm)		6 x 3
T13	<i>Howea forsteriana</i> (Kentia Palm)		6 x 3
T20	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)		8 x 3
T21	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)		9 x 3
T22	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)		9 x 3
T24	<i>Plumeria acutifolia</i> (Frangipani)		3 x 3
T27, T28, T29	<i>Phoenix roebelenii</i> (Dwarf date palm)		4 x 3 each

- Trees on Council land:

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
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TB	<i>Callistemon viminalis</i> (Weeping Bottle Brush)	In accordance with Figure 3 of the Arboricultural Impact Assessment and Management Plan prepared by George Palmer – Botanics Tree Wise People Pty Ltd dated September 2022	6 x 4	\$2000.00
TC	<i>Callistemon viminalis</i> (Weeping Bottle Brush)		6 x 4	\$2000.00

The tree/s required to be retained should appear coloured green on the Construction Certificate plans.

b) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
TA	<i>Callistemon viminalis</i> (Weeping Bottle Brush)	In accordance with Figure 3 of the Arboricultural Impact Assessment and Management Plan prepared by George Palmer – Botanics Tree Wise People Pty Ltd dated September 2022	6 x 4
T12	<i>Syagrus romanzoffiana</i> (Cocos Palm)*		8 x 3
T17	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)		6 x 3
T18	<i>Dypsis lutescens</i> (Golden Cane Palm)		6 x 3
T19	<i>Persia americana</i> (Avocado)		6 x 4
T25	<i>Lagerstroemia indica</i> (Crepe myrtle)		3 x 3
T26	<i>Persia americana</i> (Avocado)		12 x 8
T31, T32	<i>Phoenix roebelenii</i> (Dwarf date palm)		3 x 3 each
T34	<i>Senna pandula</i> (Cassia)		2 x 3
T35	<i>Chamaecyparis lawsoniana</i> (Lawson cypress)		4 x 4
T46	<i>Plumeria acutifolia</i> (Frangipani)		4 x 2
T47	<i>Magnolia grandiflora</i> (Bull Bay Magnolia)		5 x 4
T48	<i>Alnus jorullensis</i> (Evergreen Alder)		6 x 3
T49	<i>Jacaranda mimosifolia</i> (Jacaranda)		6 x 5
T50	<i>Persia americana</i> (Avocado)		6 x 5
T52	<i>Cupressus macrocarpa</i> (Weeping Golden Cypress)		6 x 4
T53	<i>X Cypress leylandii</i> (Leyland Cypress)*		6 x 3
T54	<i>X Cypress leylandii</i> (Leyland Cypress)*		6 x 4
T60	<i>Magnolia soulangeana</i> (Saucer Magnolia)		3 x 3

The tree/s that may be removed should appear coloured red on the Construction Certificate plans.

E.9 Replacement/Supplementary trees which must be planted

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

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2018). 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 becomes a prescribed tree

in accordance with Chapter E.3 of Council's Development Control Plan, 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)	Minimum Dimensions at Maturity (metres)
1 x <i>Tristanopsis laurina</i> (Water gum)	In accordance with Building A Basement Level Landscape Plan prepared by Ben Kaye Garden Design, dated August 2022	100 litre	5 x 5
1 x <i>Olea europea</i> 'Tolley's Upright' (Olive)		100 litre	8 x 4
2 x <i>Howea forsteriana</i> (Kentia palm)		Advanced – minimum 100 litre	7 x 3
1 x <i>Cupressus sempervirens</i> 'Stricta' (Pencil pine)		500mm	5 x 1
4 x <i>Cupressus sempervirens</i> 'Stricta' (Pencil pine)	In accordance with Building A Lower Ground Landscape Plan prepared by Ben Kaye Garden Design, dated August 2022	500mm each	5 x 1 each
4 x <i>Olea europea</i> 'Tolley's Upright' (Olive)		100 litre each	8 x 4 each
1 x <i>Howea forsteriana</i> (Kentia palm)		Advanced – minimum 100 litre	7 x 3
9 x <i>Olea europea</i> 'Tolley's Upright' (Olive)	In accordance with Building A Ground Floor Landscape Plan prepared by Ben Kaye Garden Design, dated August 2022	100 litre each	8 x 4 each
4 x <i>Cupressus sempervirens</i> 'Stricta' (Pencil pine)		500mm each	5 x 1 each
2 x <i>Olea europea</i> 'Tolley's Upright' (Olive)	In accordance with Building A Level 1 Landscape Plan prepared by Ben Kaye Garden Design, dated August 2022	100 litre each	8 x 4 each
1 x <i>Cupressus sempervirens</i> 'Stricta' (Pencil pine)		500mm each	5 x 1 each
7 x <i>Olea europea</i> 'Tolley's Upright' (Olive)	In accordance with Building A Level 2 Landscape Plan prepared by Ben Kaye Garden Design, dated August 2022	100 litre each	8 x 4 each
10 x <i>Tristanopsis laurina</i> 'Luscious' (Water gum)	In accordance with Building A Roof Top Landscape Plan prepared by Ben Kaye Garden Design, dated August 2022	150 litre each	7 x 5 each
2 x <i>Tristanopsis laurina</i> 'Luscious' (Water gum)	In accordance with Building B Ground Floor Landscape Plan prepared by Ben Kaye Garden Design, dated August 2022	150 litre each	7 x 5 each
3 x <i>Betula nigra</i> (River Birch)		200 litre	8 x 4 each
6 x <i>Tristanopsis laurina</i> 'Luscious' (Water gum)	In accordance with Building B Level 1	150 litre each	7 x 5 each

	Landscape Plan prepared by Ben Kaye Garden Design, dated August 2022		
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The project arborist shall document compliance with the above condition.

E.10 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	Tree Location	Fence Radius from Centre of Trunk (Metres)
T5	<i>Plumeria acutifolia</i> (Frangipani)	In accordance with Figure 3 of the Arboricultural Impact Assessment and Management Plan prepared by George Palmer – Botanics Tree Wise People Pty Ltd dated September 2022	2.4
T6	<i>Camellia sasanqua</i> (Camellia)		2.4
T7	<i>Howea forsteriana</i> (Kentia Palm)		2.4
T8	<i>Howea forsteriana</i> (Kentia Palm)		2.4
T9	<i>Ficus lyrata</i> (Fiddle wood Ficus)		2.4
T10	<i>Howea forsteriana</i> (Kentia Palm)		2.4
T11	<i>Syagrus romanzoffiana</i> (Cocos Palm)		3.6
T13	<i>Howea forsteriana</i> (Kentia Palm)		3.6
T16	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)		2.4
T20	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)		2.4
T21	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)		2.4
T22	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)		2.4
T24	<i>Plumeria acutifolia</i> (Frangipani)		2
T27, T28, T29	<i>Phoenix roebelenii</i> (Dwarf date palm)		2m each
T51	Cypress X leylandii (Leyland Cypress)		3.6
T57	<i>Persia americana</i> (Avocado)		3.6
T58 T59	<i>Celtis occidentalis</i> (Hackberry)		4.8

T61	Archontophoenix cunninghamiana (Bangalow Palm)		2.4
T62	Archontophoenix cunninghamiana (Bangalow Palm)		2.4

The project arborist shall document compliance with the above condition.

E.11 Installation of stormwater pipes and pits in the vicinity of trees

Excavation for the installation of stormwater pipes and pits within the specified radius from the trunks of the following trees shall be hand dug.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
TB	<i>Callistemon viminalis</i> (Weeping Bottle Brush)	In accordance with Figure 3 of the Arboricultural Impact Assessment and Management Plan prepared by George Palmer – Botanics Tree Wise People Pty Ltd dated September 2022	4
TC	<i>Callistemon viminalis</i> (Weeping Bottle Brush)		4

Any roots greater than 40mm diameter uncovered for the installation of stormwater pipes and pits shall not be severed and remain in situ bridging across the excavated trench. Pipes shall be guided under any roots greater than 40mm bridging across excavated trenches. Stormwater pits shall be positioned so that no roots greater than 40mm diameter are severed.

The project arborist shall document compliance with the above condition.

E.12 Maintenance of Environmental Controls

The Principal Contractor or Owner-builder must ensure that the following monitoring, measures and controls are maintained:

- erosion and sediment controls,
- dust controls,
- dewatering discharges,
- noise controls,
- vibration monitoring and controls,

f) ablutions.
Standard Condition: E11

E.13 Compliance with Construction Methodology Plan and Report

All works must be undertaken in accordance with the recommendations of all reports referred to in condition 1, 2 and 3 and A.3 of this development consent unless as may be amended by the conditions of this consent.

E.14 Compliance with Geotechnical / Hydrogeological Monitoring Program

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

The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:

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

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

Standard Condition: E12

E.15 Excavation adjacent to piled shoring system

Any excavation adjacent to the piled shoring system is to be covered with reinforced shotcrete suitably attached to the exposed concrete shore piles. The maximum exposed depth of excavation is to be 2.5m without shotcrete protection.

E.16 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 and 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 Regulation 2008* prohibits excavation in the vicinity of roads as follows: “**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road.” Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

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

Standard Condition: E13

E.17 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 Certifier 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 1.4 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 the *Conveyancing Act 1919*.
Standard Condition: E14

E.18 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*” 2004 published by the NSW Government (*The Blue Book*).

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



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

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

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

Standard Condition: E15

E.19 Disposal of Site Water During Construction

The Principal Contractor or Owner-builder must ensure:

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

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

Standard Condition: E17

E.20 Filling of Site

To the extent that this consent permits filling of the site such fill must be *virgin excavated natural material* (“VENM”).

Note: Under Schedule 1 of the *Protection of the Environment Operations Act 1997* “*virgin excavated natural material means natural material (such as clay, gravel, sand, soil or rock fines):*

- (a) *that has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues, as a result of industrial, commercial, mining or agricultural activities, and*
- (b) *that does not contain any sulfidic ores or soils or any other waste, and includes excavated natural material that meets such criteria for virgin excavated natural material as may be approved for the time being pursuant to an EPA Gazettal notice.”*

Note: Sulfidic ores and soils are commonly known as acid sulfate soils.

Note: If a person transports waste to a place (the site) that cannot lawfully be used as a waste facility for that waste: (a) the person, and, (b) if the person is not the owner of the waste, the owner, are each guilty of an offence under section 143 of the *Protection of the Environment Operations Act 1997*.

Note: A person who is the owner or occupier (principal contractor) of any land that cannot lawfully be used as a waste facility and who permits the land to be used as a waste facility is guilty of an offence under section 144 of the *Protection of the Environment Operations Act 1997*.

Note: Additional information is available from the NSW Environment Protection Authority website: Illegal waste dumping - www.epa.nsw.gov.au/your-environment/litter-and-illegal-dumping/illegal-dumping-laws-penalties

Is that fill legal? www.epa.nsw.gov.au/your-environment/litter-and-illegal-dumping/prevent-illegal-dumping/accepting-fill

Standard Condition: E18

E.21 Site Cranes

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

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

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

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

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

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

Standard Condition: E19

E.22 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 registered surveyor 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 Principal Certifier's satisfaction:

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

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

Standard Condition: E20

E.23 Placement and Use of Skip Bins

The Principal Contractor or Owner-builder must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 68 of the *Local Government Act 1993* to place the waste storage container in a public place; and
- b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.

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

Standard Condition: E21

E.24 Prohibition of Burning

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

Note: Pursuant to the *Protection of the Environment Operations (Clean Air) Regulation 2010* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.
Standard Condition: E22

E.25 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 downloaded from Council’s website 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.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply.

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

E.26 Compliance with Council’s Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway

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

The Owner, Principal Contractor or Owner-builder must meet all costs associated with such works.

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

Note: A copy of Council’s *Specification for Roadworks, Drainage and Miscellaneous Works* can be downloaded from Council’s website www.woollahra.nsw.gov.au
Standard Condition: E24

E.27 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, and
- 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 NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and
- e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.

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

E.28 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 and 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, and
 - k) retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.
- Standard Condition: E32

E.29 Shoring and Adequacy of Adjoining Property

For the purposes of section 4.17(11) of the *Act*, the following condition is prescribed in relation to a development consent for development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land.

The person having the benefit of the development consent must, at the person's own expense:

- a) protect and support the adjoining premises from possible damage from the excavation, and
- b) where necessary, underpin the adjoining premises to prevent any such damage.

Note: This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Standard condition: E33

E.30 Asbestos Removal

All asbestos removal work must be carried out safely according to NSW work health and safety legislation.

Where hazardous material, including bonded or friable asbestos has been identified in accordance with **Condition B(iii)** 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 SafeWork NSW "demolition licence" and a current SafeWork NSW "Class A licence" for friable asbestos removal.
- b) Be carried out in accordance with the relevant SafeWork NSW codes of practice.
- 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.31 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 EPA *Waste Classification Guidelines, Part1: Classifying Waste, 2014*.

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.32 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified 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 NSW EPA requirements.

Standard Condition: E41

E.33 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.34 Notification of Asbestos Removal

In addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW 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

F. CONDITIONS WHICH MUST BE SATISFIED PRIOR TO ANY OCCUPATION OR USE OF THE BUILDING (PART 6 OF THE ACT AND PART 8 DIVISION 3 OF THE REGULATION)

F.1 Occupation Certificate (section 6.9 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 6.10 of the Act) unless an Occupation Certificate has been issued in relation to the building or part.

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

Standard Condition: F1

F.2 Fire Safety Certificates

In the case of a **final occupation certificate** to authorise a person:

- a) to commence occupation or use of a *new building*, or
- b) to commence a change of building use for an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate has been issued for the building.

In the case of an **interim occupation certificate** to authorise a person:

- a) to commence occupation or use of a partially completed new building, or
- b) to commence a change of building use for part of an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate or an interim fire safety certificate has been issued for the relevant part of the building.

Note: This condition does not apply to a class 1a or class 10 building within the meaning of clause 167 of the *Regulation*.

Note: In this condition:

interim fire safety certificate has the same meaning as it has in Part 9 of the *Regulation*.

final fire safety certificate has the same meaning as it has in Part 9 of the *Regulation*.

new building has the same meaning as it has in section 6.1 of the *Act*.

Standard Condition: F4

F.3 Compliance Certificate from Sydney Water

All work must be completed in accordance with the section 73 Compliance Certificate issued under the *Sydney Water Act 1994* and any "Notice of Requirements", prior to any Occupation Certificate being issued.

Note: For more information go to www.sydneywater.com.au/section73 or call 1300 082 746.

Standard Condition: F5

F.4 Amenity Landscaping

The Owner or Principal Contractor must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

F.5 Commissioning and Certification of Systems and Works

The Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier 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 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 Certifier 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 PC 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 PC must submit to Council, with any Occupation Certificate, copies of WAE plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA upon which the PC has relied in issuing any Occupation Certificate.

Standard Condition: F7

F.6 Commissioning and Certification of Public Infrastructure Works

The Principal Contractor or Owner-builder must submit, to the satisfaction of Council, certification from a professional engineer that all public infrastructure works have been executed in compliance with this consent and with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012).

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

Standard Condition F9

F.7 Street Numbering

The development must be provided with street and sole occupancy unit numbers determined by Council. This condition has been imposed to ensure that emergency services, utility services, and the general public are able to clearly and readily locate any property. Further, this condition has been imposed to protect the integrity of street numbering and land information.

Note: Applications for the allocation of street and sole occupancy unit numbers should be made together with any application for a strata certificate or Torrens or community title subdivision certificate. Council will determine at its discretion in accordance with its policy street numbers and street addresses that best suit the public interest.

Standard Condition: F11

F.8 Letter Box(es)

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

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

Standard Condition: F12

G. CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY SUBDIVISION CERTIFICATE**G.1 Electricity Substations – Dedication as Road and/or Easements for Access**

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

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

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

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

Standard Condition: G4

H. CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF A FINAL OCCUPATION CERTIFICATE (SECTION 6.4 (C))**H.1 Fulfillment of BASIX Commitments – clause 154B of the Regulation**

All BASIX commitments must be effected in accordance with the BASIX Certificate No. **No 1237642M 04.**

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

Standard Condition: H7

H.2 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in compliance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Principal Contractor's or Owner's expense:

- a) stormwater pipes, pits and connections to public stormwater systems within the *road*,
- b) driveways and vehicular crossings within the *road*,

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

Note: Security held by Council pursuant to section 4.17(6) of the *Act* will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the Occupation Certificate to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customerservice centre.

Standard Condition: H13

H.3 Dilapidation Report for Public Infrastructure Works

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

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

The dilapidation report must include:

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

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

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

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

Standard Condition: H14

H.4 Positive Covenant and Works-As-Executed Certification of Stormwater Systems

On completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings prepared by a registered surveyor and submitted to the Principal Certifying Authority detailing:

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the on-site detention system and the basement pumpout system,
- c) that all below ground structures are fully tanked and no subsoil drainage / seepage collected and discharged into Council's stormwater network,
- d) that a basement pumpout system with minimum storage of 3m³ has been constructed in accordance with the approved drawings,
- e) that the works have been constructed in accordance with the approved design and will provide minimum 55.4m³ detention storage volume in accordance with the approved drawings,
- f) that the works have been constructed in accordance with the approved design and will provide stormwater quality system which consists minimum 6x690 PSorb StormFilter and 1 x OceanGuard 200 by Ocean Protect in accordance with the approved drawings,
- g) pipe invert levels and surface levels to Australian Height Datum, and
- h) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the on-site-retention system, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services.

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

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

H.5 Positive Covenant for Mechanical Parking Installation & Work-As-Executed Certification of Mechanical Systems (Special Condition)

On completion of construction work, mechanical parking installations are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:

- a) Compliance with conditions of development consent relating to mechanical parking installation of car stacker system;
- b) That the works have been constructed in accordance with the approved design;
- c) A positive covenant pursuant to Section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the mechanical car stacker system incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered at the Land and Property Information NSW.

Note: The PCA must supply a copy of the WAE Plans to Council together with the *Final Occupation Certificate*.

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

(vi) Landscaping

The *principal contractor* or *owner* must provide to PCA a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

I. CONDITIONS WHICH MUST BE SATISFIED DURING THE ONGOING USE OF THE DEVELOPMENT**I.1 Provision of Off-street Public and Visitor Parking**

The owner and occupier, in compliance with AS/NZS 2890.1:2004 *Parking facilities - Off-street car parking*, AS2890.3:2015 *Parking Facilities - Bicycle Parking Facilities*, and AS/NZS 2890.6 *Parking Facilities: Off-Street Parking for People with Disabilities* respectively, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces
Car Parking (Stacker)	14
Car Parking (Visitor)	1
Bicycle Parking	6
Motorcycle Parking	1

This condition has been imposed to ensure adequate on-site parking is maintained.

Standard Condition: I21

I.2 Parking Permits

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

I.3 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. No 1237642M 04.

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.4 Ongoing Maintenance of the On-Site-Detention System

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

- Permit stormwater to be temporarily detained by the system.
- Keep the system clean and free of silt rubbish and debris.
- If the car park is used as a detention basin, a weather resistant sign must be maintained in a prominent position in the car park warning residents that periodic inundation of the car park may occur during heavy rain.

- d) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by Council.
- e) Carry out the matters referred to in paragraphs (b) and (c) at the owner's expense.
- f) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly.
- g) Permit Council or its authorised agents from time to time upon giving reasonable notice (but at anytime and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant.
- h) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice.
- i) Where the owner fails to comply with the owner's obligations under this covenant, permit Council or its agents at all times and on reasonable notice at the owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.
- j) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the system and caused by an act or omission by the owners in respect of the owner's obligations under this condition.

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

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

I.5 On-going Maintenance of the Mechanical Parking Installation of Car Stacker System;

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

- k) Keep the systems clean and free of rubbish and debris;
- l) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by the Council;
- m) Carry out the matters referred to in paragraphs (a) and (b) at the Owners expense;
- n) Not make any alterations to the systems or elements thereof without prior consent in writing of the Council and not interfere with the systems or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- o) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- p) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice;
- q) Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations;

- r) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the systems and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition.

This condition has been imposed to ensure that owners are aware of maintenance requirements for their mechanical systems.

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

I.6 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)

Each year, the owner of a building to which an *essential fire safety measure* is applicable must provide an *annual fire safety statement* to Council and the Commissioner of the NSW Fire Brigades. The *annual fire safety statement* must be prominently displayed in the building.

Note: *Essential fire safety measure* has the same meaning as in clause 165 of the *Regulation*. *Annual fire safety statement* has the same meaning as in clause 175 of the *Regulation*. Part 9 Division 5 of the *Regulation* applies in addition to this condition at the date of this consent. Visit Council's web site for additional information in relation to fire safety www.woollahra.nsw.gov.au.
Standard Condition: I35

I.7 Outdoor Lighting – Residential

Outdoor lighting must comply with AS/NZS 4282:2019: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminare and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282:2019.

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

Note: This condition has been imposed to control the obtrusive effects of outdoor lighting.
Standard Condition: I49

I.8 Outdoor Lighting – Roof Terraces

Outdoor lighting must comply with AS/NZS 4282:2019: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminare and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282:2019.

All lighting to be installed on the roof terrace will be recessed lights or will be surface wall/balustrade mounted lights at a maximum height of 600mm above the finished floor level of the roof terrace.

Note: This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.

Note: Council may consider, subject to an appropriate Section 4.55 Application, relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.
Standard Condition: I51

I.9 Waste Management - Residential

Waste management must comply with the approved site waste minimisation and management plan (SWMMP) and with Woollahra DCP 2015, Chapter E5–Waste Management.

The occupier of the site must place waste and recycling bins/crates on the footpath for collection but not earlier than 12 hours prior to the designated collection time.

The occupier of the site must remove waste and recycling bins/crates from the footpath within 12 hours of being emptied by Council's waste service and they must be stored within the site in the approved waste storage area.

No commercial waste must be placed within residential waste and recycling bins/crates.

Note: This condition has been imposed to ensure that the provisions of the approved SWMMP and Woollahra DCP are complied with during the ongoing operations of the development.

Note: For further residential wastes management policy information go to www.woollahra.nsw.gov.au
Standard Condition: I52

I.10 Noise Control

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

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

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government) and the *NSW Industrial Noise Policy* (www.epa.nsw.gov.au/your-environment/noise/industrial-noise) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

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

NSW Environment Protection Authority— see “noise” section www.environment.nsw.gov.au/noise.

NSW Government legislation- access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* is available at www.legislation.nsw.gov.au.

Australian Acoustical Society—professional society of noise related professionals
www.acoustics.asn.au.

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

Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.

Standard Condition: I56

I.11 Noise from Mechanical Plant and Equipment

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

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the L_{A90} , 15 minute level measured by a sound level meter.

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

Note: Words in this condition have the same meaning as in the *Noise Policy for Industry* (2017) [www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)) and *Noise Guide for Local Government* (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government

Standard Condition: I59

I.12 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 *Noise Policy for Industry* (2017) [www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)) and *Noise Guide for Local Government* (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government
Standard Condition: I59

I.13 RESTRICTION AS TO USER - USE OF ACCOMMODATION

- (a) A restriction as to user pursuant to section 88E of the *Conveyancing Act 1919* is to be submitted to Council for approval limiting the use of any accommodation to which this consent relates to the following persons:
 - (i) Seniors or People Who Have a Disability;
 - (ii) people who live within the same household with Seniors or People Who Have a Disability;
 - (iii) staff employed to assist in the administration of and provision of services to housing provided under this Policy.
- (b) The restriction as to user must be generally in the form provided in Annexure A (or Council's approved form) and stipulate the Council as the sole authority to release or modify the covenant.
- (c) The approved form of restriction as to user must be registered against the title of the land by NSW Land Registry Services prior to the issue of any occupation certificate.
- (d) A certified copy of the restriction as to user shall be provided to Council as soon as practicable after final approval and registration has been affected by the NSW Land Registry Services.

Reason: to ensure compliance with clause 18 of the Seniors Housing SEPP.

I.14 RESTRICTION AS TO USER - CONTINUED ACCESS ARRANGEMENTS

- (e) A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* is to be submitted to Council for approval which provides for the continued access arrangements for residents of the development to:
 - (i) shops, bank service providers and other retail and commercial services that residents may reasonably require; and
 - (ii) community services and recreation facilities; and

- (iii) the practice of a general medical practitioner, in accordance with this consent.
- (f) The positive covenant must be generally in the form provided in Annexure B (or Council's approved form) and stipulate the Council as the sole authority to release or modify the covenant prior to Occupation Certificate.
- (g) The approved form of positive covenant must be registered against the title of the land by NSW Land Registry Services.
- (h) A certified copy of the positive covenant shall be provided to Council as soon as practicable after registration has been affected by the NSW Land Registry Services.

Reason: to ensure ongoing compliance with clause 26 of the Seniors Housing SEPP.

J. MISCELLANEOUS CONDITIONS

J.1 Restriction on occupation

In accordance with the provision of clause 18 of the Seniors Housing SEPP only the kinds of people referred to below may occupy any accommodation to which this consent relates:

- (a) Seniors or People Who Have a Disability,
- (b) people who live within the same household with Seniors or People Who Have a Disability,
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

Reason: to ensure compliance with clause 18 of the Seniors Housing SEPP.

J.2 Compliance with Condition V.1

Details of compliance with condition V.1 of this Consent must be maintained in a register and provided to Council upon request to the registered proprietors of the land or the owners corporation. The register must state the names and date of births of all residents.

J.3 Evidence of compliance with resident access to services requirements

- (a) A report must be submitted to Council biennially confirming the access arrangements for residents of the development to:
 - (i) shops, bank service providers and other retail and commercial services that residents may reasonably require; and
 - (ii) community services and recreation facilities; and
 - (iii) the practice of a general medical practitioner.

Where access arrangements have changed since the date of this consent, the new access arrangements and reasons for same must be set out in the report.

If the access arrangements are not as approved by this consent and are deemed by Council acting reasonably to be unacceptable, a private bus service must be arranged by the registered proprietor of the land as soon as practicably possible, at no cost to Council.

Reason: to ensure ongoing compliance with clause 26 of the Seniors Housing SEPP

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.

Standard Advising: K1

K.2 Dial Before You Dig



The Principal Contractor, Owner-builder or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and dial 1100 Before You Dig or visit www.1100.com.au

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

Standard Advising: K2

K.3 Builder's Licences and Owner-builders Permits

Section 6.6(2)(d) of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appoint a Principal Contractor for residential building work who must be the holder of a contractor licence.

The Owner(s) must appoint the Principal Certifier. The Principal Certifier must check that the required insurances are 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.

Note: For more information go to the NSW Fair Trading website
www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating
Standard Condition: K5

K.4 Building Standards - Guide to Standards and Tolerances

The Principal Certifier does not undertake detailed quality control inspections and the role of the Principal Certifier 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 “NSW Guide to Standards and Tolerances 2017” 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 Principal Certifier does not undertake this role.

Council, as the Principal Certifier or otherwise, does not adjudicate building contract disputes between the Principal Contractor, contractors and the Owner.

Note: For more information on the *NSW Guide to Standards and Tolerances* go to the NSW Fair Trading website www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating/after-you-build-or-renovate/guide-to-standards-and-tolerances or call 133 220.
Standard Condition: K6

K.5 SafeWork NSW Requirements

The *Work Health and Safety Act 2011* and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Note: For more information go to the SafeWork NSW website www.safework.nsw.gov.au or call 131 050.
Standard Condition: K7

K.6 Asbestos Removal, Repair or Disturbance

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

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

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

- a) *Work Health and Safety Act 2011*,
- b) *Work Health and Safety Regulation 2017*,
- c) SafeWork NSW “Code of Practice: How to Safely Remove Asbestos” (2016), and
- d) SafeWork NSW “Code of Practice: How to Manage and Control Asbestos in the Workplace” (2016).

Note: For more information go to the SafeWork NSW website on asbestos www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos, and www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice or call 131 050.
Standard Advising: K8

K.7 Lead Paint

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

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

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

Standard Advising: K9

K.8 Dividing Fences

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

Note: Further information can be obtained from the NSW Civil and Administrative Tribunal www.ncat.nsw.gov.au/Pages/cc/Divisions/dividing_fences.aspx

Note: Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Around 75% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. To contact the Community Justice Centres go to www.cjc.nsw.gov.au or call 1800 990 777.

Standard Advising: K10

K.9 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact George Lloyd, Assessment Officer, on (02) 9391 7059.

However, if you wish to pursue your rights of appeal in the Land and Environment Court you are advised that Council generally seeks resolution of such appeals through a section 34

Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

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

Standard Condition: K14

K.10 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act.

The securities will not be released until a Final Occupation Certificate has been 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 Refund of Security Bond Application form can be downloaded from www.woollahra.nsw.gov.au

Standard Condition: K15

K.11 Recycling of Demolition and Building Material

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

Standard Condition: K17

K.12 Owner-builders

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

Note: For more information go to the NSW Fair Trading website www.fairtrading.nsw.gov.au or call 133 220.

Standard Condition: K18

K.13 Pruning or Removing a Tree Growing on Private Property

The Woollahra Development Control Plan 2015 (DCP), Chapter E3 –Tree Management, may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the Woollahra DCP from Council's website www.woollahra.nsw.gov.au or call Council on 9391 7000 for further advice.

Standard Condition: K19

K.14 Dilapidation Report

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

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

Standard Advising: K23

K.15 Roads Act 1993 Application

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

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's below ground stormwater system
- Installation of soil/rock anchors under the roadway
- Installation of Stormwater outlet pipes across the nature strip

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

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

- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point

of site outlet pipe(s). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.

- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

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

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

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

Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

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

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

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

Note: When an application under the *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

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

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

Standard Advising: K24

ANNEXURE A - TERMS OF RESTRICTION AS TO USER

This is Annexure A to the restriction on the use of land by a prescribed authority between [insert land owner] and Woollahra Municipal Council

1. Definitions

Council is Woollahra Municipal Council or its successor.

4.vi.1 **Development Consent** means [insert] as may be modified from time to time.

4.vi.2 **Lot Burdened** means [insert]

People with a disability means people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.

Seniors means any of the following—

- (a) people aged 55 or more years,
- (b) people who are resident at a facility at which residential care (within the meaning of the *Aged Care Act 1997* of the Commonwealth) is provided,
- (c) people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

Seniors SEPP means *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 NSW*

2. Terms of restriction

Unless and until the Development Consent is surrendered, all accommodation on the Lot Burdened must only be occupied by the following kinds of people:

- (a) Seniors or People Who Have a Disability,
- (b) people who live within the same household with Seniors or People Who Have a Disability,
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

3. Name of authority having the right to release, vary or modify the said covenant

Woollahra Municipal Council

Signature of witness

Signature of attorney

Full name of witness (print)

Name of attorney

Address of witness (print)

I certify I am an authorised officer of the prescribed authority I certify that I am an eligible witness and that the who is personally known to me or as to whose identity
Approved by Woollahra Municipal Council by its authorized delegate under section 378 of the Local Government Act 1993 (NSW)

I am delegate signed in my presence
otherwise satisfied signed this document in my presence

Signature of witness

Signature of delegate

Full name of witness (print)

Name of delegate

Address of witness (print)

Position of delegate