



**Land and Environment
Court**
of New South Wales

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DX 264, Sydney

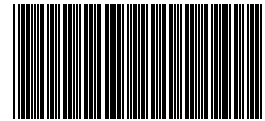
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Your Ref:



D000116Z9H

10 December 2021

NOTICE OF ORDERS MADE

Case number 2021/00044584
Case title Whitehall Property Services Pty Ltd v Randwick City Council

On 10 December 2021 the following orders (and/or directions) were made:

The Court orders that:

- (1) The appeal is upheld.
- (2) Development application no DA/571/2019 for a vertical living garden and integrated digital advertising sign on lot 100 DP 1156327 and Lot 1 DP 104068 known as Nos 305 and 307 Anzac Parade Kingsford is determined by the grant of development consent subject to the conditions in Annexure A.
- (3) The exhibits are returned, except for exhibits B, C and D.

For the Registrar

Annexure A

**DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF
CONSENT**

Development Application No: DA/571/2019

Development: Installation of digital signage and vertical garden on southern face of existing building, at No. 305 Anzac Parade, Kingsford inclusive of a Planning Agreement.

Site: 305 and 307 Anzac Parade, Kingsford NSW 2032

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

Date of determination: 10 December 2021.

Date from which consent takes effect: Date the consent is registered on the NSW Planning Portal.

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 305 and 307 Anzac Parade, Kingsford NSW 2032.

Randwick CC ats Whitehall Property Services Pty Ltd [HWLE-Matter.]

DRAFT DEVELOPMENT CONSENT CONDITIONS**GENERAL CONDITIONS**

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of environmental amenity.

Approved Plans & Supporting Documentation

- The development must be implemented in accordance with the plans and supporting documentation listed below except where amended by other conditions of this consent:

Plan/Document	Drawn/Prepared by	Dated
DA.01 Issue 3	ARCADIS	05.06.21
DA.02 Issue 2	ARCADIS	29.09.19
DA.03 Issue 2	ARCADIS	29.09.19
DA.04 Issue 2	ARCADIS	29.09.19

Vertical Landscaping Plans by Jungleyfy			
Sheet No.	Issue	Name of Plan	Date
LA-00	1	Objectives	13.09.2019
LA-01	1	Detailed Site Assessment	13.09.2019
LA-02	1	Irrigation and Shade	13.09.2019
LA-03	1	Wind Analysis	13.09.2019
LA-04	1	Planting Selection	13.09.2019
LA-05	1	Planting Strategy	13.09.2019
LA-06	1	Planting Design Zone A	13.09.2019
LA-07	1	Planting Design Zone B	13.09.2019
LA-08	1	Planting Design Zone C	13.09.2019
LA-09	1	Planting Design Zone D	13.09.2019

Technical Report	Revision	Author	Date
Statement of Environmental Effects	-	ABC Planning Pty Ltd	10.2021
Supplementary Statement of Environmental Effects	-	ABC Planning Pty Ltd	30.03.2020
Lighting Impact Assessment	D	Electrolight	
Traffic and Road Safety Assessment	19090r	Transport and Urban Planning	21.08.2019
Daktronics Product Specification DVX-2802-10MN-6000-WC		Daktronics	
Thermal and Acoustic Technical Summary for DVX-2802		Daktronics	

Plans of Management	Revision	Author	Date
Vertical Garden Plan of Management	1	Applicant	12.09.2019
Signage Content Plan of Management	1	Applicant	12.09.2019

2. The location, structure and types of signs shown on the stamped approved plans must not be altered.

DURATION OF CONSENT

3. Subject to condition 43, in accordance with Clause 14 of State Environmental Planning Policy No 64 - Advertising and Signage, this consent ceases to be in force 15 years from the date on which the consent becomes effective and operates in accordance with Section 4.20 of the *Environmental Planning & Assessment Act 1979*.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a 'Construction Certificate' is issued by either an Accredited Certifier or Randwick City Council. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

Consent Requirements

4. The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.

Public Benefit

5. Prior to issue of a Construction Certificate, the applicant must enter into a Planning Agreement with Randwick City Council (**Council**) under the *Environmental Planning and Assessment Act 1979*. The Planning Agreement must be consistent with the terms of the offer made by the Applicant in connection with the development application as set out in the letter from the Applicant to Council dated 22 October 2019, a copy of which is annexed and marked 'A'.

6. **NOT USED**

Compliance Fee

7. A development compliance and enforcement fee of \$964.60 shall be paid to Council in accordance with Council's adopted Fees & Charges Pricing Policy, prior to the issue of a Construction Certificate for development.

Long Service Levy Payments

8. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service

Levy Corporation or the Council, in accordance with Section 109F of the *Environmental Planning & Assessment Act 1979*.

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

Compliance with the Building Code of Australia & Relevant Standards

9. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
10. **NOT USED**
11. **NOT USED**
- 'Living/Green Wall'**
12. The Certifying Authority/PCA must ensure that the plans, details, species list and all other elements associated with the 'green/living wall', which will be attached to the external face of the southern wall of the subject building, are substantially consistent with what has been shown on the Architectural Plans by Arcadis, dwg's DA.01-04, issue 2, 29/9/19, and Planting Strategy by Junglefy, v1.0, dated 13/09/19.
13. Prior to the issue of a construction certificate, engineering Certification (by a suitably qualified industry professional) must be submitted to and approved by the Certifying Authority/PCA, confirming that all elements associated with the 'living/green wall' are suitable for purpose, and will not affect the structural integrity of the building in anyway, including a reference to the relevant plans.
14. Prior to the issue of a construction certificate, documentation and details satisfying the '*recommended conditions of consent*' (shown below), as contained at Section 7, pages 18-24 of the Vertical Garden Plan of Management by Junglefy, dated 12/09/19, must be submitted to, and be approved by, the Certifying Authority/PCA, relating to:
 - Access system design;
 - Mandatory maintenance obligations;
 - Quarterly performance reporting;
 - Complaint management process & reporting;
 - Ongoing performance of vertical garden;

- Removal of vertical garden and digital sign at the expiration of development consent or leasehold (whichever occurs first).

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the 'Principal Certifying Authority', as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity.

Certification and Building Inspection Requirements

15. Prior to the commencement of any building works, the following requirements must be complied with:

- a) a Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

- b) a *Principal Certifier* (PC) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
- c) a *principal contractor* must be appointed for the building work and any applicable requirements of the *Home Building Act 1989* must be satisfied accordingly; and
- d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
- e) at least two days notice must be given to the Council, in writing, prior to commencing any works.

Construction Site Management Plan

16. A *Construction Site Management Plan* must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development:

- location and construction of protective site fencing / hoardings;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;
- provisions for public safety;
- dust control measures;
- details of proposed sediment and erosion control measures;
- site access location and construction
- details of methods of disposal of demolition materials;
- protective measures for tree preservation;
- location and size of waste containers/bulk bins;

- provisions for temporary stormwater drainage;
- construction noise and vibration management;
- construction traffic management details;
- provisions for temporary sanitary facilities;
- Truck/parking waiting areas are to be identified to minimise impacts on residents and businesses.

The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works, to the satisfaction of Council.

A copy of the Construction Site Management Plan must be provided to the Principal Certifying Authority and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.

Construction Noise & Vibration Management Plan

17. A *Construction Noise & Vibration Management Plan*, prepared in accordance with the Environment Protection Authority (EPA) Guidelines for Construction Noise and Assessing Vibration, by a suitably qualified person, is to be developed and implemented prior to commencing site work and throughout the course of construction, in accordance with the following requirements:

- a) Noise and vibration emissions during the construction of the building and associated site works must not result in an unreasonable loss of amenity to nearby residents.

Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management strategies.

- b) The *Construction Noise & Vibration Management Plan* must include details of measurements, analysis and relevant criteria and demonstrate that the noise and vibration emissions from the work satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997*, current EPA Guidelines for Construction Noise and Assessing Vibration and Councils conditions of consent.

- c) A further report/correspondence must be obtained from the consultant as soon as practicable upon the commencement of works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the *Construction Noise & Vibration Management Plan* and which demonstrates compliance with relevant criteria.

- d) Any recommendations and requirements contained in the *Construction Noise & Vibration Management Plan* and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to Council and the PCA.

A copy of the *Construction Noise & Vibration Management Plan* and associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to Council and the Principal Certifying Authority accordingly.

17A Rope Access Strategy

Prior to the commencement of construction, the Applicant must engage a suitably qualified Height Safety Engineer to design (and certify following installation) a Rope Access Strategy nominating the locations and fixing details to safely conduct regular service and maintenance

Public Liability

18. The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$10 million and a copy of the Insurance cover is to be provided to the Principal Certifying Authority and Council prior to the commencement of works.

Public Utilities

19. The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.

Construction and Maintenance Activities

20. Construction and maintenance activities shall be undertaken wholly within the private property of the site. If this is not possible Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Anzac Parade during installation. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplinLogin.jsf>

For more information relating to RMS conditions of consent, the proponent may contact the Land Use Planner on devlopoment.sydney@rms.nsw.gov.au.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity during construction.

Building & Demolition Work Requirements

21. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Randwick City Council's Asbestos Policy and the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;
- Protection of Environment Operations (Waste) Regulation 2014;
- Randwick City Council Asbestos Policy.

A copy of Council's Asbestos Policy is available on Council's web site or a copy can be obtained from Council's Customer Service Centre.

Public Safety & Site Management

22. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with to the satisfaction of Council:

- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- b) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- c) All building and site activities (including storage or placement of materials or waste and concrete mixing/pouring/pumping activities) must not cause or be likely to cause 'pollution' of any waters, including any stormwater drainage systems, street gutters or roadways.

Note: It is an offence under the Protection of the Environment Operations Act 1997 to cause or be likely to cause 'pollution of waters', which may result in significant penalties and fines.

- d) Access gates and doorways within site fencing, hoardings and temporary site buildings or amenities must not open outwards into the road or footway.
- e) Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health, Building and Regulatory Services department.
- f) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.

Site Signage

23. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:

- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
- name, address and telephone number of the *Principal Certifying Authority*,
- a statement stating that "unauthorised entry to the work site is prohibited".

Restriction on Working Hours

24. Building, demolition and associated site works must be carried out in accordance with the following requirements:

Activity	Permitted working hours
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All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> Monday to Friday - 7.00am to 5.00pm Saturday - 8.00am to 5.00pm Sunday & public holidays - No work permitted
Excavating or sawing of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> Monday to Friday - 8.00am to 3.00pm only Saturday - No work permitted Sunday & public holidays - No work permitted
Additional requirements for all development	<ul style="list-style-type: none"> Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted
Road Occupancy Licence (Condition 20)	<ul style="list-style-type: none"> Approved hours in the ROL

An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.

Building Encroachments

25. There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the 'Principal Certifying Authority' issuing an 'Occupation Certificate'.

Note: For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Occupation Certificate Requirements

26. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation or use of the development encompassed in this development consent (including alterations, additions and 'fit-out' work to existing buildings), in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979*.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The requirements of the *Environmental Planning & Assessment Act 1979* and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

Structural Certification

27. A Certificate must be obtained from a *professional engineer*, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the *Principal Certifying Authority*. A copy of which is to be provided to Council with the Occupation Certificate.
28. Prior to an occupation certificate, the Applicant must provide certification from a suitably qualified Height Safety Engineer to demonstrate the Rope Access system has been installed in accordance with the design.

Council's Infrastructure, Vehicular Crossings, street verge

29. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
30. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
 - a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
 - b) Works on Council land must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
 - c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

31. **Not used**

Certification of Living/Green Wall

32. Prior to the issue of an Occupation Certificate, a Certificate must be obtained from a qualified professional in the landscape/horticultural industry must be submitted to, and be approved by, the PCA, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the approved plans and supporting documentation.
33. Suitable strategies shall be implemented to ensure that the living/green wall is maintained in a healthy and vigorous state until maturity, for the life of the development.
34. A report/correspondence prepared by a suitably qualified and experienced consultant shall be submitted to Council **prior to the issue of an occupation certificate**, which demonstrates compliance with AS 4282-2019 Control of the

obtrusive effects of outdoor lighting and the lighting impact assessment prepared by Electrolight Australia Pty Ltd dated 16 September 2019.

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

Sydney Airports Corporation Limited

35. The Sydney Airports Corporation Limited (SACL) requirements contained in SACL Registration No.: 20/0396, dated 25 June 2020 annexed to these conditions and marked "B" shall be adhered to at all times.

TfNSW Conditions

36. All buildings and structures (including signage), together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Anzac Parade boundary.
37. The proposed luminance levels shall be in accordance with the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 and relevant Australian Standards.
38. The images displayed on the sign must not contain/use:
- Flashing or flickering lights or content
 - Animated displays, moving parts or simulated movement
 - Complex displays that hold a driver's attention beyond "glance appreciation" □
 - Displays resembling traffic control devices by use of colour, shape or words that can be construed as giving instruction to traffic for example, red, amber or green circles, octagons, crosses, triangles and words such as 'stop' or 'halt'
 - A method of illumination that distracts or dazzles
 - Dominant use of colours red or green
- 38A. Static digital advertisements are to be displayed in a completely static manner, without any motion, for a dwell time of 30 seconds.
- 38B. A road safety check which focuses on the effects of the placement and operation of the digital signage shall be carried out in accordance with Part 3 of the *RMS Guidelines for Road Safety Audit Practices* after a 6 month period of operation but within 9 months of the sign's installation. The road safety check must be carried out by an independent TfNSW accredited road safety auditor who did not contribute to the original application documentation.

A copy of the report is to be provided to TfNSW within 4 weeks of the conclusion of the above period and any safety concerns identified by the auditor relating to the operation or installation of the sign must be rectified by the applicant.

- 38C. Construction and maintenance activities shall be undertaken wholly within the private property of the site. If this is not possible Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may

impact on traffic flows on Anzac Parade during installation. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>

- 38D. All works associated with the proposed sign, including maintenance activities, shall be at no cost to TfNSW.

Conditions from Vertical Garden Plan of Management

39. The Applicant must maintain all elements of the Vertical Garden during the consent period, including the ongoing performance and condition of the living infrastructure. The Applicant must routinely perform all maintenance obligations in accordance with the Maintenance Schedule contained within the vertical garden plan of management (VGPM). The Applicant may engage a suitably qualified landscape consultant (such as Junglefy) with the requisite skills and experience to fulfil its maintenance obligations.
40. The Applicant must submit a quarterly report to Randwick City Council specifically addressing the performance results of the Junglefy Breathing Wall™ including a high-level commentary in accordance with the vertical garden plan of management (VGPM).
41. The Applicant is to establish an email address and readily manned phone number to which complaints may be directed that relate specifically the performance of the Vertical Garden (the maintenance of plants) and the Digital Sign. The email address and phone number must be provided to Randwick City Council prior to the issue of an Occupation Certificate. Within each Quarterly Performance Report (Condition 3), the Applicant must notify Council of all complaints received, the follow up actions taken and the status of each complaint.
42. To ensure that the integrated design and function of the development is maintained, the applicant shall ensure that at all times the Green Living Wall component of the development is kept in good condition and that vegetation cover is maintained in sufficient amount. Should the vegetation cover on the Vertical Garden deteriorate beyond a reasonably acceptable standard and it not be replenished within a fortnight by living vegetation of sufficient coverage, then the digital signage component of the development shall be turned off to display a blank screen without any advertisements until such time as the vegetation cover has been replenished or replaced with sufficient living vegetation coverage.

Removal of Vertical Garden and Digital Sign at expiration of the development consent or leasehold (whichever occurs first)

43. To allow for the future development of 307 Anzac Parade, Kingsford, the applicant must remove the development and restore the wall on which the development was situated to the condition it was in prior to the development:
- (a) At the conclusion of 15 years from the date on which the consent becomes effective and operates; or
 - (b) When the rights of the applicant (or the subsequent lessee/owner of the development) to the airspace above 307 Anzac Parade, Kingsford expire without such rights being renewed (whether by licence or lease) if this occurs before the conclusion of 15 years from the date on which the consent becomes effective or the period in (c) below; or
 - (c) When the owner of 307 Anzac Parade Kingsford obtains development consent and subsequently a construction certificate for a building which would encroach

into the airspace currently occupied by the development and exercise its rights under air rights lease to require removal of the development, if this occurs before the conclusion of 15 years from the date on which the consent becomes effective or the period in (b) above.

The development must be removed and the wall reinstated as referenced above within 60 days of any of the above periods in (a), (b) and (c).

Amenity

44. The use and operation of the premises shall not give rise to an environmental health or public health nuisance.
45. There are to be no emissions or discharges from the premises which give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations.

Illumination and acoustic compliance

46. The illuminated digital sign must be fitted with an automatic timing device to turn the illumination off between the hours of 10:00pm and 6:00am Monday to Sunday.
47. The illuminated digital sign must not result in unacceptable glare or adversely impact the safety of pedestrians, residents or vehicular traffic.
48. The use of the premises and the operation of all plant and equipment shall not give rise to the transmission of a vibration nuisance or an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background (L_{A90}), 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as an L_{Aeq} , 15 min and adjusted in accordance with the NSW Office of Environment & Heritage/Environment Protection Authority Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).

Operation of the development is to generally conform to the letter from Daktronics Mechanical Engineer, Ryan Bjerkeset dated 17th September 2021 in relation to DVX2802 Confirmation of Heat Load, Noise and Vibration from the nominated screen.

49. The content of the sign must comply with the provisions of AS/NZS4282.
50. On completion of the installation and commissioning of the sign and prior to commencement of operation of the sign, a qualified lighting professional must be engaged to carry out a luminance survey of the sign with a full white image, two hours after sunset. The sign must be dimmed until a maximum average luminance of 150 Cd/m² is achieved. That level is the maximum level for the dimming of the sign after dark. A report on the luminance survey must be submitted to Council within two weeks of commencement of operation of the sign.
51. The luminance levels of the LED advertising screen must comply with Australian Standard AS 4282-2019 Control of the obtrusive effects of outdoor lighting, and the below table:

MAXIMUM LUMINANCE LEVELS		
Environmental Conditions	Dimming Level	Maximum Permissible Luminance (cd/m ²)
Full Sun on Face of Sign	100%	8500
Day Time Luminance (typical sunny day)	70.5%	6000
Morning and Evening Twilight and Overcast Weather	8.2%	700
Night time pre curfew (Until 10pm)	Dimmed to ensure maximum permissible is not exceeded	150*
Night Time post curfew (10pm-6am)	N/A(OFF)	NA

Note: "Luminance" means the objective brightness of the surface of the screen as measured by a photometer, expressed in candelas per square meter (cd/m²).

*The Dimming Level percentage in the above table is based on a maximum calibrated screen brightness of 8500 cd/m².

Notwithstanding the permitted maximum luminance levels above, should a development for shop top housing be approved for the site at No. 309 Anzac Parade and/or properties south of the subject site (within the land nominated as Block 13 in Part E6 of the RDCP), a reassessment of the maximum luminance level and impact on residential uses associated with the development is to be undertaken within 6 months of a Construction Certificate issued for the respective development. The dimming level and luminance shall be adjusted in line with the applicable Australian standards.

51A. Reflectivity

The visible light reflectivity from the screen and materials used on the signage structure shall not exceed 20 per cent and shall be designed to minimise glare.

52. At any time, the Council can request a Dimming Level Report for a specific period within the last 12 months, in which case the report shall be furnished to Council within 5 working days of the Council making the request for the Dimming Level Report in accordance with this Condition.

Advertisements – Dwell Time

53. Static digital advertisements are to be displayed in a completely static manner, without any motion, for a dwell time of 30 seconds.

Advertisements – Transition Time

54. The transition time between different static digital advertisements displayed on the digital LED screens must be no longer than 0.1 seconds.

Advertisements Generally

55. All advertisements displayed must be in accordance with the *Transport Corridor Outdoor Advertising and Signage Guidelines*, dated November 2017 and as amended.

Advertisements – Static Advertisements

56. All advertisements displayed must not comprise any flashing lights, animated display, moving parts or simulated movement.

Advertisements – Message Sequencing

57. Message sequencing designed to make a driver anticipate the next message is prohibited across images presented on a single screen and across any series of signs.

Advertisements – Traffic Control Device or Driving Instructions

58. Advertisements displayed on the LED advertising screen must not be capable of being mistaken:
- a) for a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device; or
 - b) as text providing driving instructions to drivers.

Advertisements – Dazzle or Distract Drivers

59. All advertisements displayed must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.

Advertisements – Text

60. The amount of text and information supplied on a sign should be kept to a minimum, for example no more than a driver can read at a short glance.
61. Each sign must be restricted to six units of information calculated as follows:
- Words of up to 8 letters, inclusive = 1 unit
 - Numbers up to 4 digits, inclusive = 0.5 units
 - Numbers of 5-8 digits = 1 unit
 - Symbol, picture, logo or abbreviation = 0.5 units

Electronic Log

62. An electronic log of the sign's activity must be maintained by the operator for the duration of the development consent and be available to Council and/or Roads and Maritime to allow a review of the sign's activity for any reason, including where a complaint has been made.

Wind Loading

63. The approved sign must meet wind loading requirements as specified in Australian Standard AS 1170.1 and AS1170.2

Maintenance

64. The Applicant shall undertake regular maintenance of the approved structures and landscaping in accordance with maintenance plan submitted to satisfy this consent and the following Maintenance Schedule:

Maintenance Visit	Frequency
Visual Inspection	Fortnightly
Major Inspection	Every 8 weeks
Annual Major Safety Inspection	Annually

All structures are to be inspected regularly to identify any damage from storms, graffiti or the like. The Applicant must be responsible for the removal of graffiti from the sign or vertical living wall within 48 hours of notification.

65. **NOT USED**

GENERAL ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, or other relevant legislation and requirements. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

- A1 The requirements and provisions of the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000* must be fully complied with at all times.

Failure to comply with these requirements is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million. Alternatively, Council may issue a penalty infringement notice (for up to \$6,000) for each offence. Council may also issue notices and orders to demolish unauthorised or non-complying building work, or to comply with the requirements of Council's development consent.

- A2 In accordance with the requirements of the *Environmental Planning & Assessment Act 1979*, building works, including associated demolition and excavation works (as applicable) must not be commenced until:

- A *Construction Certificate* has been obtained from an Accredited Certifier or Council,
- An Accredited Certifier or Council has been appointed as the *Principal Certifying Authority* for the development,
- Council and the Principal Certifying Authority have been given at least 2 days' notice (in writing) prior to commencing any works.

- A3 Council can issue your *Construction Certificate* and be your *Principal Certifying Authority* for the development, to undertake inspections and ensure compliance with the development consent and relevant building regulations. For further details contact Council on 9093 6944.

- A4 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA), Disability (Access to Premises – Buildings) Standards 2010 and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards. You are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.

- A5 Any proposed amendments to the design and construction of the building may require a new development application or a section 4.55 amendment to the existing consent to be obtained from Council, before carrying out such works

- A6 A Local Approval application must be submitted to and be approved by Council prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:-

- Install or erect any site fencing, hoardings or site structures
- Operate a crane or hoist goods or materials over a footpath or road
- Placement of a waste skip or any other container or article.

For further information please contact Council on 9093 6971.

- A7 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.
- A8 This consent 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 proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:
- the consent of the owners of such adjoining or supported land to trespass or encroach, or
 - an access order under the *Access to Neighbouring Land Act 2000*, or
 - an easement under section 88K of the *Conveyancing Act 1919*, or
 - an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

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).

- A9 External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building or cause a nuisance or damage to any adjoining land.

Finished ground levels external to the building are to be consistent with the development consent and are not to be raised, other than for the provision of approved paving or the like on the ground.

- A10 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.
- A11 An application must be submitted to and approved by Council prior to the installation and operation of any proposed greywater or wastewater treatment systems, in accordance with the *Local Government Act 1993*.

Greywater/Wastewater treatment systems must comply with the relevant requirements and guidelines produced by NSW Health, NSW Office of Environment and Heritage and other relevant regulatory requirements.