

<b>JRPP No.</b>	2009SYE012
<b>FILE No.</b>	DA 355/2009/1
<b>PROPOSAL:</b>	Partial demolition of the Synagogue, child care and ancillary buildings and the construction of a new Synagogue, new administration building with underground car parking for 14 (fourteen) vehicles, new ritual baths, new ancillary buildings, new child care centre for 60 (sixty) children, new security 'blast' walls and landscaping works
<b>APPLICANT:</b>	Indyk Architects Pty Ltd
<b>AUTHOR:</b>	Simon Taylor, Woollahra Municipal Council

## Assessment Report and Recommendation

<b>PROPERTY DETAILS</b>	7-9 Ocean Street, Woollahra (Temple Emanuel)
<b>Lot and DP No.</b>	Lots 1, 3 and 4 DP 189813 Lot 1 DP 206058 Lot 8 DP 18228
<b>Side of Street</b>	Eastern side of Ocean Street Western side of Woods Avenue Southern side of Kilminster Lane
<b>Site Area</b>	3,996.2m <sup>2</sup>
<b>Zoning</b>	Residential 2(a) Existing use rights apply
<b>TYPE OF CONSENT</b>	Local Development
<b>OWNER</b>	The Congregation Of The Temple Emanuel
<b>DATE LODGED</b>	14 July 2009 (Original submission) 9 February 2010 (Revised submission)

### 1. DOES THE APPLICATION INVOLVE A SEPP 1 OBJECTION?

No – Existing use rights apply.

### 2. RECOMMENDATION

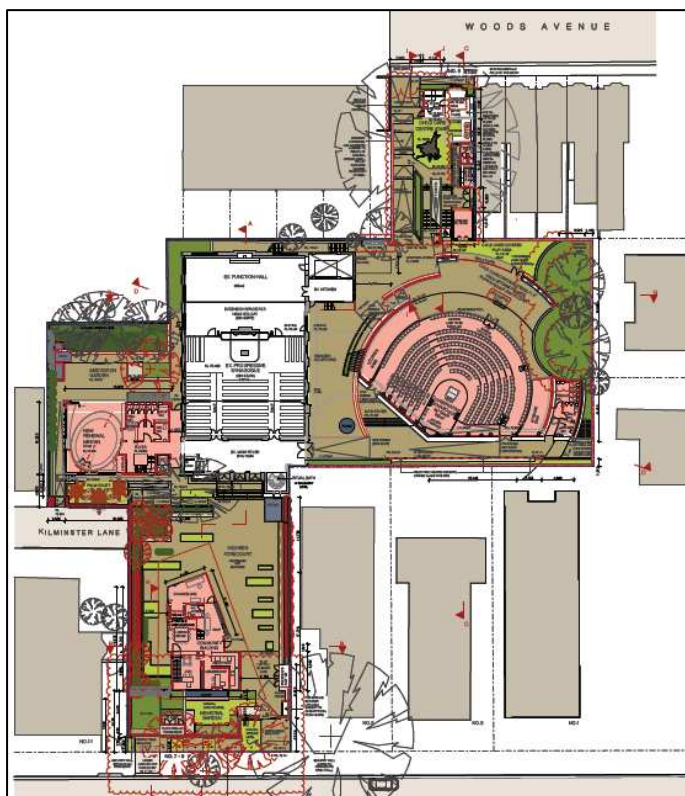
The application is recommended for conditional approval, subject to modifications to the design in **Condition C1**, which requires the entire deletion of the first floor level of the proposed Administration/Community building fronting Ocean Street, an increased setback to the southern side of the child care centre class rooms, no additional 0-2 year old places within the child care centre, a reduction in the height of the security wall along the southern boundary to 1.8m and several other changes.

### 3. LOCALITY PLAN



### 4. DESCRIPTION OF PROPOSAL

Shown below is a ground floor view of the proposed scheme, with the Administration/Community building at the front of the site fronting Ocean Street, the Progressive Synagogue and adjacent education facilities in the centre of the site, the Conservative Synagogue being the largest building in the south eastern corner and the child care centre above the two Synagogues and at the rear fronting Woods Avenue.



The application was amended on 9 February 2010 as a response to various concerns raised by Council. It included the following modifications:

- The blast security wall was set back 2.2m-5.0m from the Ocean Street boundary and the bollards were relocated within the subject site
- Retention of child care centre places at 60
- Reduction in the width of the Administration/Community Building at the front of the site
- Modifications to the design, including the removal of one car space in the basement car park, a modification to the design of the Conservative Synagogue and changes alongside the Woods Avenue child care centre to

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- address Landscaping and Trees concerns
  - Bin storage within the basement level
  - Skylights within the covered play area

The proposal, as amended and as assessed, involves the following works:

- Demolition of the existing Neuweg Sanctuary building (providing seating for 250 people) at the front of the property fronting Ocean Street and its replacement with a new Community Building incorporating a cantilevered first floor level which will incorporate a reception, office space, Rabbi's counselling room and library on the ground floor and administrative space on the first floor
- New basement level underneath the new Community Building with staff car parking for 14 vehicles and access from Ocean Street, a rainwater tank and access to the Ritual Bath with foyer
- Alterations and additions to the existing Administration and Education Building adjacent to the existing Progressive Synagogue (Temple Emanuel) to become a Renewal Minyan Building, including the following changes:
  - Partial demolition to allow a new meditation space (Renewal Minyan) and new toilet facilities on the ground floor
  - Removal of the existing administrative space on the first floor and replacement with classrooms and toilet facilities
  - Passenger lift and staircase servicing the basement, ground and first floors
- Restoration of the Main or Progressive Synagogue including a new courtyard, new child care centre rooms and a new Renewal Minyan Synagogue
- Construction of a new Conservative Synagogue in the south eastern corner of the site, partially sunk below existing ground level and comprising seating for 327 people (or 660 people on High Holy days).
- New child care facilities comprising the following:
  - Demolition of the existing single-storey child care centre building
  - Redesign of the current classroom facilities at the rear of the Progressive Synagogue
  - Two additional classrooms on the roof of the Conservative Synagogue
  - Alterations and additions to the existing cottage fronting Woods Avenue to provide refurbished staff and office facilities
  - Retention of 60 child care centre places, with 15 children 0-2 years old and 45 children 3-5 years old, hours of operation being 8:30am-3:30pm with 12 staff
  - Establishment of a grassed roof above the Conservative Synagogue primarily for play area for the child care centre
- Construction of a new concrete security 'blast' wall, measuring 2.8m-3.2m in height and 0.5m thick, along Ocean Street, part of the southern boundary alongside 5 Ocean Street, part of the northern and western boundary alongside 11 Ocean Street and the Kilminster Lane frontage
- Removal of ground level parking (informal parking for 15 cars) near the Ocean Street entrance
- Establishment of courtyards, forecourts, landscaping and paving throughout the site
- Removal of 22 trees varying in height between 3.5m and 20m and planting of 58 new trees as part of the Landscape Plan
- Other ancillary structures across the site, including rainwater tanks, on-site detention (OSD) tanks, sub floor plant room space and several ponds, including one in the courtyard between the two Synagogues
- A new elevated driveway ramp from Woods Avenue to the child care centre

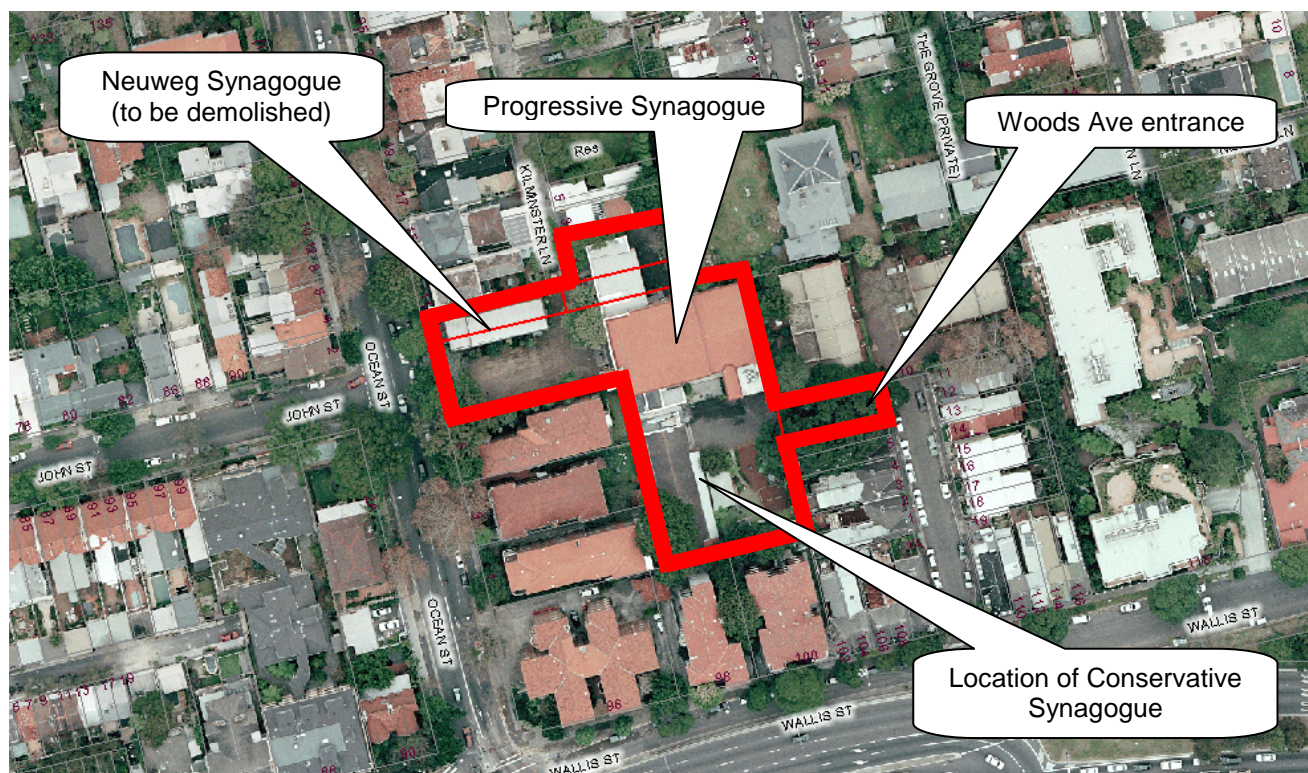
## 5. SUMMARY

Reasons for report	Issues	Submissions
The Joint Regional Planning Panel (JRPP) is the consent authority for this development application as the application is for a development that has a capital investment value of more than \$10 million.	<ul style="list-style-type: none"> <li>Lack of parking and implications upon traffic in Ocean Street and Woods Avenue</li> <li>Height and dominance of the blast security wall along Ocean Street and adjoining properties</li> <li>Demolition of Neuweg Synagogue, which is listed as a potential heritage item</li> <li>Loss of sightlines from Ocean Street to the Progressive Synagogue (potential heritage item)</li> <li>Setback of new Conservative Synagogue to adjoining properties to the south</li> <li>Acoustic and visual privacy to adjoining properties</li> <li>Protection of several trees including the heritage listed Moreton Bay Fig</li> <li>On-going issues associated with the operation of the Synagogue and child care centre</li> <li>Objectors concerns</li> </ul>	Thirty one (31) submissions were received from twenty seven (28) different properties as a result of the two notification periods.

## 6. ESTIMATED COST OF WORKS

The capital investment value of the development (as provided by the applicant) is \$10,469,380. This is considered to be accurate.

## 7. DESCRIPTION OF SITE OF LOCALITY





<b>Physical features</b>	<p>The site is located on the eastern side of Ocean Street opposite the intersection of John Street and Ocean Street. The site is generally L-shaped, but consists of five separate allotments of land, and as such, exhibits an irregular allotment shape. As well as the main Ocean Street frontage, there are also frontages to Kilminster Lane to the north and Woods Avenue to the east.</p> <p>The overall site area is 3996.2m<sup>2</sup> with a frontage of 24.4m to Ocean Street, 24.46m to Kilminster Lane and 17.155m to Woods Avenue.</p>
<b>Topography</b>	<p>The site is generally flat in nature with a slight slope diagonally across the site from south east to north west of approximately 3.0m.</p>
<b>Existing buildings</b>	<p>Currently existing on the site are two Synagogue buildings – the Neuweg Synagogue (Conservative Synagogue) at the front of the site near Ocean Street and the Temple Emanuel (Progressive Synagogue and function hall) in the centre of the site.</p> <p>A child care centre is focused within the existing residential terrace house in the easternmost allotment of land fronting Woods Avenue. Classrooms are located within the centre of the site alongside the rear boundary with 1-5 Ocean Street.</p> <p>An administrative and educational building is also located on the site.</p> <p>Surface car parking is located in front of the Progressive Synagogue with access via Ocean Street. There is informal parking for approximately 15 cars.</p> <p>A Moreton Bay Fig tree at the rear of the site near Woods Avenue is listed as a heritage item.</p>
<b>Environment</b>	<p>Adjoining to the south are multi-storey inter-war residential flat buildings with frontages to Ocean Street and Wallis Street. The remainder of the locality is interspersed by a variety of Victorian terrace houses, semi detached houses and single dwellings on a variety of allotment sizes.</p> <p>A small park named Elms Reserve is located a short distance to the north in Kilminster Lane.</p> <p>There are a large number of heritage items surrounding the subject site – located in Woods Avenue, Waimea Avenue and The Grove.</p>

## 8. PROPERTY HISTORY

<b>Current use</b>	Jewish Synagogue to Ocean Street with an ancillary use as a child care centre to Woods Avenue.
<b>Previous relevant applications</b>	DA220/2003/1 was approved by the Development Control Committee on 4 August 2003. It involved the construction of a new front fence - comprising spear headed railings to a height of 1.8m and set back 4.6m from the street. Also proposed was a side

	<p>boundary fence along the southern boundary – consisting of cyclone wire and to a height of 2.3m.</p> <p>Alterations and additions to the child care centre were approved as part of DA720/2002/1 on 14 October 2002.</p> <p>Alterations and additions to the main Synagogue were approved as part of DA884/1999/1 on 29 February 2000.</p> <p>There are other minor and/or incidental approvals applicable to the subject site.</p>
<b>Pre-DA</b>	<p>A Pre DA meeting (pre DA 33/2008) was held on 29 July 2008. Five members of Council and 11 members representing Temple Emanuel were present. The minutes from the meeting were forwarded to the applicant and outlined the following conclusion:</p> <p>‘In general, the scheme is considered to be acceptable with regard to the Existing Use Rights provisions and the relevant objectives and controls of the Woollahra LEP 1995, Woollahra HCA DCP 2003, Woollahra off-street car parking DCP, Woollahra Access DCP and Woollahra Childcare Centre DCP, with the following exceptions:</p> <ul style="list-style-type: none"> <li>• Justification for the shortfall in off-street car parking</li> <li>• Management of increased traffic, particularly in relation to the operation of the childcare centre</li> <li>• Excessive height of the blast wall within the Ocean Street streetscape</li> <li>• Noise arising from the operation of the childcare centre and appropriate acoustic measures implemented within the design of the child play area</li> <li>• Child care centre capacity and operational details</li> <li>• Landscaping requirements outlined in the comments provided by Council’s Trees Officer, including the protection of the heritage listed Moreton Bay fig tree at the Woods Avenue frontage</li> <li>• Impact associated with the demolition of the Neuweg Sanctuary</li> <li>• The loss of visibility of the Progressive Synagogue when viewed from Ocean Street (arising from the construction of the new Community/Administration building)’</li> </ul> <p>Comments have been made in relation to the above in Section 17.1.</p>
<b>Requests for additional information</b>	<p>Various requests for additional information (relating to Environmental Health, Trees and Landscaping, Technical Services, Traffic, Urban Design and Heritage) were made in August and September 2009.</p>
<b>Amended plans</b>	<p>Following further discussions with Council and taking into account comments provided in September 2009, amended plans incorporating some of Council’s concerns were lodged on 9</p>

	February 2010. These plans were readvertised and renotified in accordance with the JRPP requirements from 17 February 2010 to 3 March 2010.
<b>L&amp;E Court appeal</b>	None applicable.
<b>Heritage Listing</b>	<p>The Temple Emanuel (synagogue complex of buildings and grounds) has been included in draft Woollahra LEP (Amendment No. 66) to be listed as a heritage item. This includes the Neuweg Sanctuary building and the Main Progressive Synagogue (Temple Emanuel).</p> <p>The draft LEP (Amendment No. 66) was placed on exhibition from 9 December 2009 to 19 February 2010 and is due before Council again in May/June 2010.</p>

## 9. REFERRALS

<b>Referral Officer</b>	<b>Comment</b>	<b>Annexure</b>
<b>Community Services</b>	Acceptable, however, it is noted that the reduction in the number of child care places from 80 (as originally proposed) to 60 (current proposal) is disappointing as there is a continued high demand for child care places in the Woollahra area.	<b>3</b>
<b>Development Engineer</b>	Generally acceptable, subject to specific conditions relating to groundwater, geotechnical investigations and construction management.	<b>4</b>
<b>Drainage Engineer</b>	Refer to <b>Conditions C3, C8, C9, C11, D1-D3, E1, E4-E6, F1, F2, I2 and I3.</b>	
<b>Traffic and Parking Engineer</b>	<p>Unsatisfactory, given the continued vast shortfall in the amount of off-street car parking on the subject site and the impact that this imposes upon a street network that has a high demand for on-street parking.</p> <p>Despite this, <b>Condition F2</b> has been applied.</p>	<b>5</b>
<b>Landscaping Officer</b>	<p>The initial proposal had substantial impacts upon three existing trees on the site. Following the submission of amended plans, these issues have been resolved and the proposal is acceptable.</p> <p>Refer to <b>Conditions B3, B4, D5 and E10-E14.</b></p>	<b>6</b>
<b>Urban Design Planner</b>	Initial concerns were raised in relation to the dominance of the blast wall. The recommendation from Council's Urban Designer was to set back the wall in accordance with the predominant front setback. This was implemented in the revised scheme and then considered to be acceptable.	<b>7</b>

<b>Environmental Health Officer</b>	<p>Concerns were raised in relation to the lack of information/documentation in the original scheme in relation to the acoustic privacy afforded to adjoining landowners. The revised scheme, including a reduced number of child care places, and supporting documentation, rendered the proposal satisfactory.</p> <p>Refer to <b>Conditions C14-C17 and C19, C21, F3, H2, I1, I5, I6, I11 and I12.</b></p>	<b>8</b>
<b>Fire Safety Officer</b>	<p>The proposal is satisfactory, subject to one condition.</p> <p>Refer to <b>Conditions F5 and I9.</b></p>	<b>9</b>
<b>Heritage Officer</b>	<p>Council's Heritage Officer initially recommended that the Neuweg Synagogue be retained due to its heritage significance and the blast wall be deleted given its dominance in the streetscape. These changes were not undertaken in the revised scheme.</p> <p>Advice from Council's Urban Design Officer and verbal comment from Council's Heritage Officer in January 2010 formed the basis that the proposal is now satisfactory. The demolition of the Neuweg Synagogue, whilst unfortunate, was acceptable given the constraints of the existing building and the retention of the existing stain glassed windows.</p> <p>Verbal comment from Council's Heritage Officer indicated that concern still existed with regard to the impact that the new Administration/Community building would impose upon the Temple Emanuel. This stance is detailed in <b>Condition C1.</b></p> <p><b>Conditions B4 and B5</b> also apply.</p>	<b>10</b>

#### **10. CLAUSES 40-46 OF EP&A REGULATION 2000 AND SECTIONS 107 AND 108 OF EP&A ACT 1979**

The subject properties are located in a Residential 2(a) zone. Whilst the use of a child care centre in the allotment of land to Woods Avenue is permissible within a site zoned Residential 2(a), the primary function of the combined allotments is as a community facility, the definition of which includes a religious organisation such as a Jewish Synagogue.

Accordingly, the subject application for restoration and expansion of the Synagogue relies upon the sites benefiting from existing use rights regulated under Sections 107 and 108 of the Environmental Planning and Assessment Act 1979 and Clauses 40-46 of the EP&A Regulation 2000.



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In relation to establishing existing use rights, there are three key aspects to be established as follows:-

- The use was lawfully commenced;
- The use was made prohibited by a subsequent LEP; and
- The use has been continuous and not been abandoned for more than 12 months.

In the assessment of existing use rights in prior building and development applications for the subject site, BA381/1927 involved the erection of the Synagogue in its current location. This indicates that the use was lawfully commenced prior to the operation of Woollahra LEP 1995, in which it is now prohibited as a land use.

The applicant has previously provided a statement to Council advising that the use of the premises has been continual since its construction. Council does not dispute this finding. Therefore, it is assumed that existing use rights have not been abandoned.

The proposal must be considered on merit and with regard to the relevant provisions of Section 79C of the EP&A Act 1979. All references to statutory controls and development standards below are therefore to be used as a guide only.

## **11. EXISTING USE RIGHTS PLANNING PRINCIPLE**

The following planning principles, in relation to the environmental assessment of proposals on land with existing use rights, were established in the *Fodor Investments v Hornsby Shire Council Land & Environment Court* case.

These principles are applied to the subject development in light of the Land and Environment Court judgment in the *Stromness P/L v Woollahra Municipal Council* handed down in October 2006 which prevents consideration of any statutory and policy planning provisions, including building envelope controls and objectives, which derogate from the existing use rights provisions. The consideration of the impact of a proposed development benefiting from existing use rights upon the amenity of the public domain and adjoining properties was central to the judgment.

### **1. *How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?***

*While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessments.*

Properties to the immediate south and south west are zoned Residential 2(b) and comprise residential flat buildings. The applicable floor space ratio for these sites is 0.75:1 although it is apparent that the actual gross floor area of these buildings is significantly greater than 1:1.

The remaining surrounding properties are zoned Residential 2(a) and generally consist of dwelling houses that are generally consistent with the scale of terrace development throughout the Woollahra heritage conservation area.

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The gross floor area of the development, including the basement level, is approximately 3910m<sup>2</sup> or a floor space ratio of 0.97:1. Of this amount, 500m<sup>2</sup> is located below the existing ground level and will not be visible (resulting in a visible GFA of 3410m<sup>2</sup> and visible FSR of 0.83:1).

This is consistent with the scale of residential dwellings to the east and north and significantly less than the scale of three, four and five storey residential flat building developments within the Residential 2(b) zone to the south and south west.

The height of the existing Progressive Synagogue is 13.4m or RL 85.26. Whilst higher than many residential terrace houses surrounding property, it is consistent with the predominant height of the aforementioned residential flat buildings to the south, with RLs of 85.71, 85.48, 89.34, 91.47 and 84.1.

At a maximum height of 7.8m, the proposed additions including the new Conservative Synagogue and Administration/Community building will be significantly less than the height of the Progressive Synagogue. This ensures that the Progressive Synagogue remains the dominant building on the site. This issue is discussed further throughout the report.

A large percentage of the existing buildings on the subject site exhibit minimal setbacks to side boundaries. This includes the child care centre, the Neuweg Synagogue and Temple Emanuel. This is not entirely inconsistent with the Woollahra heritage conservation area. However, the site is unique in terms of its size, shape and use. Nonetheless, the proposed additions will, in the majority of cases, establish more appropriately positioned buildings in terms of their relationship with surrounding residential properties.

Modifications are discussed further in the report and are outlined in **Condition C1**. In doing so, the proposal is perceived to be consistent with what is permissible on surrounding sites.

## **2. What is the relevance of the building in which the existing use takes place?**

*Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.*

The Temple Emanuel is a two-storey, 11.4m-13.4m high structure situated in the centre of the site with a generous setback from Ocean Street of 30m. It is clearly the most prominent building on the subject site. The scale of the building is largely maintained in its current form. Similarly, the changes to the cottage on Woods Avenue at the rear are minor in terms of any enlargement of the building form as the principal building form is being maintained.

Of the structures to be demolished, the single storey Neuweg building is to be replaced with a two-storey Administration/Community building that is approximately 50% bigger than what presently exists on the site.

	Existing Neuweg Synagogue	Proposed Administration/Community building
Footprint	165m <sup>2</sup>	250m <sup>2</sup>
Height	4.8m	7.2m
Northern (side) setback	4.7m	0.9m
Southern (side) setback	13.7m	Min 3.6m
Western (front) setback	4.1m	7.8m

Furthermore, the new Conservative Synagogue in the centre of the site is a large scale structure that, despite being sunken into the ground by approximately 2.5m, will still present as a two-storey building. It is replacing a much smaller single storey classroom building, which is concentrated in the south eastern corner of the battle-axe allotment.

	Existing Classrooms	Proposed Conservative Synagogue
Footprint	330m <sup>2</sup>	Approx 770m <sup>2</sup>
Height	4.0m	7.5m
Southern (side) setback	0.1m	Min 1.1m
Western (side) setback	0.3m-2.6m	3.8m

It is noted that there is no automatic entitlement to an overall development of the same scale. Despite this, the floor space ratio and building footprint on the subject sites is increasing substantially. However, in a general sense, it is considered reasonable to allow an increase in the size of the development for the following reasons;

- The design of the development takes into account the amenity of surrounding residents
- There is a localised religious demand for the maximisation of the site
- The proposal remains of a lesser scale than at least seven surrounding residential flat buildings, the majority of which provide no off-street car parking

Concerns are still raised, however, in relation to certain aspects of the development including the setback of the classrooms to the southern boundary and the scale of the new Administration/Community building. This is outlined in the following section.

### **3. What are the impacts on adjoining land?**

*The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.*

#### **Demolition of a contributory item**

A planning principle was established in *Helou v Strathfield Municipal Council (2006)* NSWLEC 66 where a proposal involves the demolition of contributory item in a conservation area.

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The proposal involves the demolition of the Neuweg Synagogue, which is located within the Woollahra heritage conservation area. However, the listing in the Woollahra HCA DCP 2003 notes the Moreton Bay Fig, Emanuel Synagogue and Inter war religious building as being contributory items.

The Neuweg Synagogue was constructed in 1966, outside of Council's definition for inter war buildings. Accordingly, it is considered that the above planning principle does not apply as the Neuweg Synagogue is not as a contributory item.

*Visibility of the Progressive Synagogue in the streetscape*

The proposal involves the demolition of the existing single storey Neuweg Synagogue fronting Ocean Street and its replacement with a larger, two-storey Administration/Community building in a similar location.

In response, Council's Heritage Officer provided the following initial comment:

*'While it is appreciated that the perceived safety risks have driven the programme for the Ocean Street forecourt treatment and that the only opportunity to provide basement parking is in this location, the proposed demolition of the Neuweg Synagogue is disappointing.'*

*'The Community Building will obscure views from the site entry towards the Progressive Synagogue and significantly impact on the formality and nature of the forecourt.'*

The Temple Emanuel (synagogue complex of buildings and grounds) has also been included in the draft Woollahra LEP (Amendment No. 66) to be listed as a heritage item. This includes the Neuweg Sanctuary building and the Main Progressive Synagogue. The draft LEP is yet to be gazetted but an assessment against its heritage significance is still undertaken.

Firstly, the heritage significance of the Synagogue grounds relates largely to the Temple Emanuel (Progressive Synagogue) building rather than the Neuweg Synagogue fronting Ocean Street. The Heritage Inventory Sheet prepared for the site outlines the extensive cultural and historical significance attached to Temple Emanuel, with only limited details (two of ten paragraphs) relating to the Neuweg Synagogue. Given the scale and positioning of the Temple Emanuel, it is safe to assume that the primary focus of the potential heritage listing of the site relates to this building.

Whilst this does not form the basis for the demolition of the Neuweg Synagogue, it is considered reasonable on the basis that the current building has a limited function. The growth of the congregation has rendered the size of the Conservative Synagogue insufficient. Its position is also inappropriate and impacts upon the effective construction of the security wall. It poses certain security risks for the Neuweg Synagogue in the event that it was retained for use as an Administration or Community Building given its proximity to the street. When considering the secondary heritage significance of the building, Council is unable to oppose the demolition of the building.

In its place is a new two storey Administration/Community building which is significantly larger than the present Neuweg Synagogue.

The proposal, as amended, proposed a minor increase in the southern side setback of the first floor of the Administration/Community building in order to improve sightlines to the

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front façade of the Temple Emanuel. However, at 3.6m, this is still considered to be vastly inadequate.

The importance of the open forecourt and the vista to the front façade of the Temple Emanuel is considered of great importance in the Heritage Inventory for the site. Included in the report is the following comment:

*'The siting and form of the Neuweg Synagogue is a particularly thoughtful and sensitive response to the layout of the site, defining the external forecourt space by providing its northern wall, proportions and focus on the principal façade of the 1941 Synagogue. The position of the Neuweg Synagogue and its original entry from Ocean Street responds to the established built alignment along the eastern side of Ocean Street, further emphasising the forecourt, as an opening in the built edge of the street.'*

*'The forecourt entry to the site with its strong composition of textured brick buildings and trees is a very successful architectural forecourt. The composition of the forecourt, the entry façade of the 1941 Synagogue and the Neuweg Synagogue is a striking feature of the place and immediately creates a sense of occasion when the site is entered from Ocean Street.'*

*'The building was set back from the main street frontage of Ocean Street, with the foreground landscaped with trees, lawns and twin flagged paths. Entrance gates of wrought iron were also erected on the street frontage. Lipson noted this 'spacious approach and the beautiful setting in what will ultimately be a very fine garden'.'*

The relationship achieved by the forecourt and the Temple Emanuel via the positioning of the existing Neuweg Synagogue is demonstrated in the following photograph taken from the western side of Ocean Street opposite the subject site.

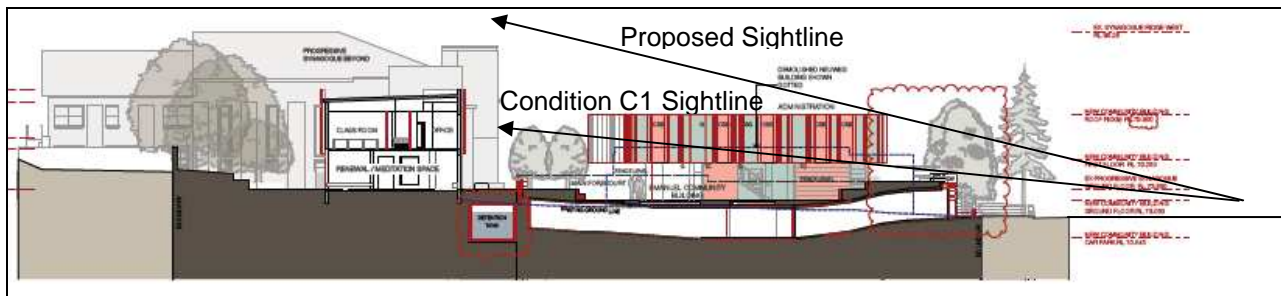


Existing view of Temple Emanuel from opposite side of Ocean Street

The Neuweg Synagogue can be seen on the left of the photograph. Its positioning alongside the northern boundary allows for an uninterrupted view (disregarding vegetation) to the entirety of the front façade of the Temple Emanuel for 66% of the street frontage. The view includes both levels of the building.

When discarding the proposed blast wall, the proposal, as amended, will reduce the view of Temple Emanuel substantially. The two-storey height of the Administration/Community

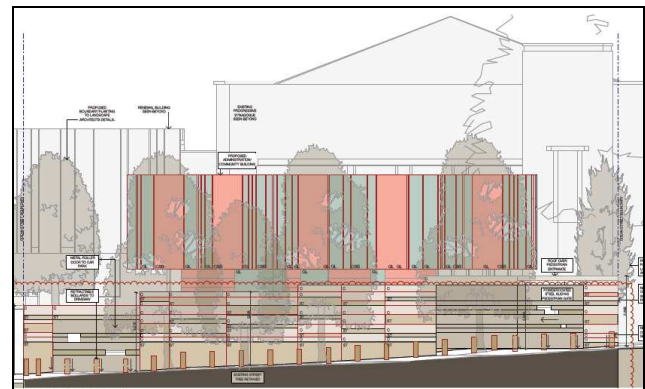
building will eliminate sightlines to the façade of the Temple Emanuel for all but 3% of the frontage. Furthermore, partial sightlines to a portion of the facade will only be from 15% of the street frontage.



Sightlines from the opposite side of Ocean Street over the proposed Community building



Sightlines will be limited to the southern corner



Front elevation of Administration/Community building (elevated above street level)

The above outcome is undesirable given that Council does not oppose the demolition of the Neuweg Synagogue and the original design of the site and its buildings in 1939 always intended an open forecourt to Ocean Street. The establishment of the Administration/Community building in its current scale and location diminishes the potential and actual heritage significance of the site.

This stance would still be applied on streetscape planning grounds even if Amendment No. 66 was not gazetted in its current form. It is important to retain an open vista to the most prominent and significant building on the site, particularly given its location immediately opposite John Street.

An increased setback along the southern side of the first floor level of the Administration/Community building achieves little in terms of opening up sightlines to Temple Emanuel. The only benefit would be limited to the southern side of the site and the extent of the improvement would be marginal.

As such, **Condition C1** requires the deletion of the first floor in its entirety. As demonstrated in the above side elevation, the sightline over the 'blast' security wall, as viewed from the opposite side of Ocean Street, is vastly improved. Almost all of the remaining loss of view of the façade of Temple Emanuel can now be attributed to the scale of the security wall.



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### 'Blast' security wall

The proposal involves the construction of a 0.5m wide, 2.6m-3.2m high, 'blast' security wall along the Ocean Street frontage, extending along the northern side boundary up to and including the Kilminster Lane frontage and along the southern side boundary alongside 5 Ocean Avenue. No security wall is proposed within the Woods Avenue frontage.

Initially it was proposed to be constructed on the front boundary to Ocean Street with bollards situated on Council's footpath. However, following concerns from Council's Urban Design Officer, the fence was setback from the front boundary in accordance with the front setbacks of both adjoining properties. The bollards will now be located wholly on the subject site. Following the submission of these amended plans, Council's Urban Design Officer raised no objection.

The applicant states that the wall is necessary to mitigate and protect against the risk of a bomb blast/terrorist attack. The intent is for the wall to act as a deterrent rather than protection. A Threat and Risk Assessment Report and Security Program was submitted with the development application.

Council's Heritage Officer provided the following initial comment regarding the 'blast' security wall:

*'The proposed blast wall fronting Ocean St will result in a loss of significant views to Lipson's Synagogue (Temple Emanuel) from the street and potentially impact the amenity of the vicinity.'*

Despite this, it is recognised the actual risk of a terrorist attack is obviously uncertain but is nonetheless realistic. Accordingly, it is not unreasonable for the Synagogue to seek protection from such blasts. Accordingly, the assessment of the wall and its appropriateness in the Woollahra heritage conservation area is taking safety into account.

The foreseeable issues arising from the 'blast' security wall are:

- The inference that it promotes terrorism rather than deterring it

One could argue that the construction of the wall invites terrorists to bomb the Synagogue. However, a similar argument could be applied that the wall, if built to appropriate specifications, will deter a terrorist given that a bomb blast would be hindered by the wall and not achieve its full intent.

The above statement does not have a clear answer as the actual risk of a bomb blast is unclear. Nonetheless, the risk is real and for this reason, the security wall is considered to be reasonable.

- Deflection from the wall in the event of a bomb blast

The wall is designed to absorb a blast and protect the buildings behind it. It is not designed to deflect the blast onto Ocean Street or surrounding buildings. Whilst any bomb blast will impact upon Ocean Street and any pedestrians passing the Synagogue, and damage to surrounding buildings is likely, it will not be a direct result of the 'blast' security wall.

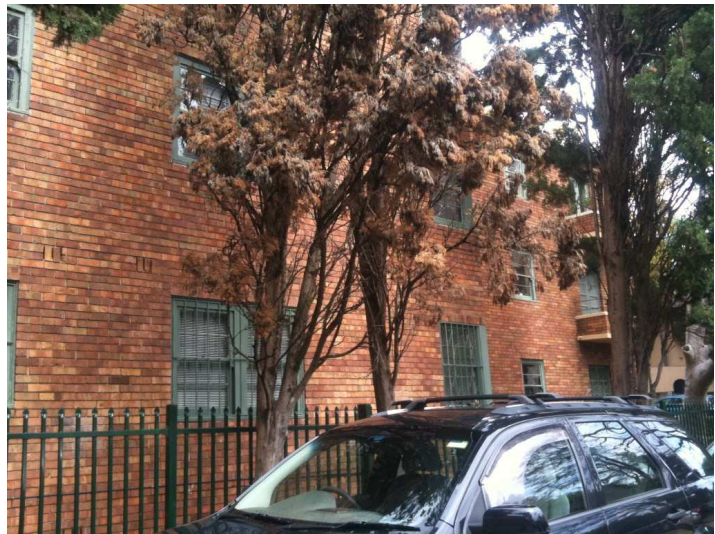
- The dominance imposed on adjoining properties

The 'blast' security wall varies between 2.6m and 3.1m in height along the side and front boundaries.

Along the northern boundary with 11 Ocean Street, the proposal establishes a 2.5m wall on the boundary to Kilminster Lane. Given that it has been argued that the wall is necessary (to some extent) due to safety concerns, it is not entirely unreasonable within the lanescape of Kilminster Lane. At a height of 2.5m, it is not entirely inconsistent with the height of garages in the lanesapce of Kilminster Lane.

Extending westward, the wall replaces the existing Neuweg Synagogue that was built to a height of 4.5m and less than 1.0m from the property boundary. In this regard, the dominance and sense of enclosure associated with the wall is perceived to be somewhat minimised. Furthermore, as it is located to the south of 11 Ocean Street, there is no additional overshadowing.

Along the southern boundary, the proposed wall will be within 1.7m of the northern elevation of the building in 5 Ocean Street. At this point, it will result in a sense of enclosure and dominance, loss of outlook and loss of solar access to the north facing windows on the ground floor of this building. This is highly undesirable and imposing upon the amenity of residents within 5 Ocean Street. Accordingly, **Condition C1** requires the reduction in the height of the wall to a height of 1.8m, at any point 18.0m back from the street frontage.



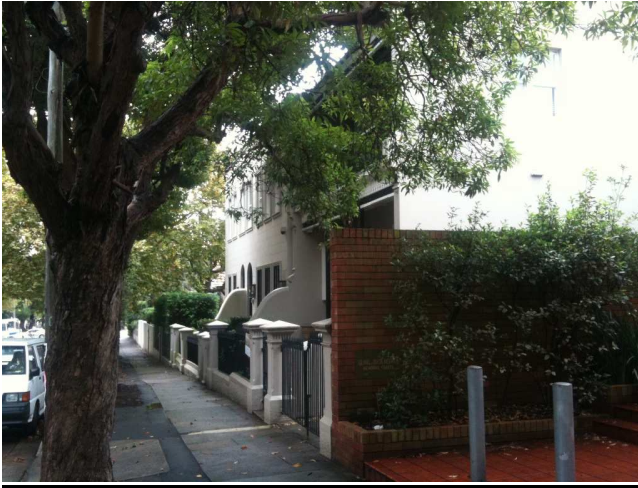
Northern elevation of 5 Ocean Street

- The scale of the fence and its consistency within Ocean Street
- The loss of sightlines to the Progressive Synagogue as a result of its excessive height

The height of the 'blast' security wall along the street frontage is up to 1.7m higher than is normally permissible in the Woollahra heritage conservation area. This would normally be undesirable. However, in certain instances, such as acting as an acoustic screen, a fence height in excess of 1.5m is deemed to be acceptable.

In this instance, the fence is appropriate for the following reasons:

- The height of the fence is consistent with the height of the fence at 2A Ocean Street (diagonally opposite the subject site), as shown below
- The height of the fence is consistent with the height of the wall separation 7 and 11 Ocean Street, as shown below



Existing wall between 7 and 11 Ocean Street



Wall to Ocean Street and John Street at 2A Ocean Street

- The surrounding streetscape is characterised by multi-storey residential flat buildings. By setting the wall back in line with the front setback of both adjoining properties, it relates to the existing building form of the streetscape rather than appearing as a solid wall on the property boundary
- By setting the wall back, it allows for the establishment of vegetation in front of the wall, which will soften its appearance

#### Heritage significance of 6 Woods Avenue

The subject site comprises 6 Woods Avenue, which originally housed the administration component of the child care centre and some classrooms. The proposal seeks to establish the staff amenities within this building, with the classrooms located within the centre of the site. The building is listed as a heritage item, with the listing relating to the terrace house and the front fencing.

Alterations and additions are proposed to 6 Woods Avenue, including an addition to the side of the dwelling and the removal of several walls at the rear. Council's Heritage Officer and Urban Design Officer both raised no objection to these changes. Whilst clearly altering the form of the heritage listed building, it has been sympathetically done, particularly with regard to its relationship with the heritage listed Moreton Bay Fig immediately adjacent to it. Accordingly, no objection is raised.

#### Landscape character

A Moreton Bay Fig at the rear of the site is listed as a heritage item in Schedule 3 of Woollahra LEP 1995.

The revised plans have been re-assessed by Council's Trees Officer and various precautions have been outlined in **Conditions B3, B4, D2, D5 and E10-E14** to ensure the health and integrity of the Moreton Bay Fig near the Woods Avenue entrance.

The overall proposal results in a stark improvement in the landscape character of the site through the provision of additional areas of private open space, paving, new tree plantings and the removal of parked vehicles within the forecourt in front of the Temple Emanuel.

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### Height

The following maximum heights are proposed:

- 5.2m-6.0m within the child care play area above the new Conservative Synagogue
- 6.0m-6.6m to the classrooms above the new Conservative Synagogue alongside the southern boundary
- 6.7m to the existing Woods Avenue terrace
- 7.4m-7.6m to the entrance porch to the child care centre alongside the Woods Avenue driveway
- 7.2m to the new Administration/Community building
- 7.8m for the Renewal Minyan space (existing building) alongside the existing Progressive Synagogue
- 11.4m-13.4m for the existing Progressive Synagogue with internal modifications occurring to approximately 9.0m
- 2.8m-3.2m for the 'blast' security wall

In each instance, the height is less than the maximum permissible height of 9.5m, with the exception of the main Progressive Synagogue, where there is no increase to the height.

The surrounding properties comprise a variety of three, four and five storey residential flat buildings in Ocean Street, Wallis Street and the end of Woods Avenue. The remaining dwelling houses to the north and east are large scale terrace houses (Ocean Street) and single storey cottages (Woods Avenue). The height of the proposed development is considered to be consistent with or less than predominant form of development in the surrounding streetscape

### General scale and bulk

The scale and bulk of the proposed redevelopment is considered to be acceptable primarily on the basis that it is surrounded by buildings of a similar scale. In fact, the residential flat buildings on Ocean Street and Wallis Street to the south are of a greater scale and footprint than what is proposed on the overall site at 7-9 Ocean Street. As a percentage, the overall footprint on the Synagogue site will be approximately 10% lower than that of the surrounding development, including the residential flat buildings in the Residential 2(b) zone.

**Condition C1** requires the deletion of the entire first floor of the Administration/Community building as it impacts upon the sightlines towards Temple Emanuel.

The main Progressive Synagogue or Temple Emanuel remains the focal building on the site due the sunken nature of the new Conservative Synagogue and the modest size of the new classrooms in the southern corner. This demonstrates an appropriate design.

### Sense of enclosure to adjoining properties

Subject to **Condition C1**, the design and siting of the new Administration/Community building is appropriate and does not pose an unreasonable sense of enclosure to adjoining properties as it has generous side and front setbacks.

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The scale and envelope of the Temple Emanuel building is largely unchanged and therefore does not pose any further concerns. Likewise, the scale of the building at 6 Woods Avenue is being predominantly maintained.

The new Conservative Synagogue is appropriately designed as it is partially located below existing ground level. Associated structures are generally acceptable, including the acoustic screening and western façade of the Synagogue due to their location at or below fence line or the level of separation provided between the structures. Concern is raised, however, in relation to the proximity of the screening to the immediate west of the Kuddish Courtyard. This imposes an unreasonable scale and bulk to 5 Ocean Street and is to be setback a further 1.0m in **Condition C1**.

The siting of Classroom C above the new Conservative Synagogue is affected by the existing mature tree along the southern boundary. It is setback a minimum of 5.0m from the southern boundary and is considered to be acceptable.

However, Classroom D is set back between 1.0m and 3.6m off the southern boundary alongside 98 Wallis Street. At this point, it will be 5.0m above the fence line. Whereas the existing child care centre building was single storey in height, the new building will extend to a much greater height within 1.0m of the southern boundary. Given the close proximity of the units at the rear of the residential flat buildings at 98 Wallis Street, there is considered to be an unreasonable sense of enclosure to Classroom D. **Condition C1** requires the classroom to be relocated 1.8m to the north but maintained with a minimum classroom size of 65m<sup>2</sup>. This will reduce the total area of outdoor play area for the children, however, it will still comply with the minimum requirements.

The sense of enclosure associated with the 'blast' security wall has been discussed elsewhere in the report.

### Visual privacy

The following observations are provided in relation to visual privacy

- The ground floor of the new Administration/Community building is screened by the 'blast' security wall whilst the first floor has been recommended to be deleted due to the visual impact on a potential heritage item
- The external changes to the Temple Emanuel are minimal and will not pose any significant impact with regard to overlooking
- The Conservative Synagogue will be partially below ground level and will not allow for sightlines to adjoining properties
- The children's play area located above the Conservative Synagogue will be adequately screened on its southern side by the new classrooms and by proposed vegetation along the common boundary with 1-5 Ocean Street. In addition, separation of between 10m and 15m is provided to the rear elevations of the residential flat buildings at 1-5 Ocean Street
- The pathway leading from the Temple Emanuel to the main play area is to be used as a fire escape, which implies infrequent use. Accordingly, no objection is raised
- The child care centre does not involve any modifications that would result in any additional overlooking, with the exception of the roof garden above the storage space. This is to be deleted and the area made non-trafficable as overlooking is available in a southern direction to the rear yard of 5 Woods Avenue. Refer to **Condition C1**.

- The ground floor of the Renewal Minyan to the north of the Temple Emanuel will be screened by the existing boundary fence
- Located above the Renewal Minyan are three classrooms (not associated with the child care centre) and one office. The proposal incorporates glass cladding to the exterior of the building with only minor changes proposed to the windows. Nonetheless, the windows are considered acceptable as there is at least 11m separation to residential properties to the east and west and the outlook to the north is over the roof of 3 Kilminster Lane

### Acoustic privacy

Council's Health Officer has undertaken an assessment of the Acoustic report submitted with the development application and considered that the likely noise levels. The comment is outlined in Annexure 8 and the Acoustic Report is attached in Annexure 13. The assessment used the following criteria:

*'The Association of Australian Acoustical Consultants (AAAC) recommend that the criteria at receivers close to child care centres should be background L90+10Db(a) provided that outside play area does not exceed a total of two hours per day. This is considered a reasonable approach and has been accepted by the NSW Land and Environment Court previously.'*

The main areas of concern are as follows:

- Congregations of people on the footpath on Ocean Street

It is likely that people will congregate at the entrance to the Synagogue, either when arriving or leaving the site. As the entrance is concentrated on the boundary with 5 Ocean Street, some concern is raised.

It is largely inevitable and unavoidable that congregants will loiter outside the entrance. This is commonplace in many public locations. However, given the new entrance is to be located in the same location as the present driveway/pedestrian entrance, no particular objection is raised.

- Use of the new Conservative Synagogue

The new Conservative Synagogue in the southern portion of the site is replacing the existing Neuweg Synagogue along the street frontage to Ocean Street. The new Synagogue will be partially below ground level such that it is unlikely to result in an unreasonable amount of noise.

- Noise arising from children playing on the roof of the Synagogue

The proposal seeks to maintain the children's play area in a similar location to existing. However, it will be elevated above the existing ground level by approximately 5.0m. Due to its elevated nature, it may result in additional noise from the site. The impact is largely concentrated to the rear units of 1, 3 and 5 Ocean Street (to the west) as the classrooms act as acoustic screening to residents in Wallis Street and Woods Avenue.

The play area slopes upwards towards the common boundary with 1, 3 and 5 Ocean Street in an effort to provide some acoustic screening.



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The findings outlined in the acoustic report are a 'worst case scenario' yet still comply with the background L90+10Db(a) criteria. Play area is limited to no more than two hours a day (see **Condition I8**) and the child care centre ceases at 3:30pm each weekday.

Council's Health Officer is satisfied that the acoustic measures provided to the residents at the rear of 1, 3 and 5 Ocean Street is adequate.

- Noise from the forecourt areas

The new Neuweg forecourt will be located between the new Administration/Community building and the Temple Emanuel. People are likely to congregate in this area prior to entering the main foyer of Temple Emanuel. At present, it is used for parking of vehicles although it did serve dual purpose as a courtyard space.

At present, the meeting points that people are likely to congregate are in front of the Temple Emanuel as the existing Conservative Synagogue (Neuweg Synagogue) is located in the forecourt in front of the Progressive Synagogue. The establishment of the Conservative Synagogue in the southern portion of the site will somewhat separate the locations in which people are likely to congregate. This is an acceptable outcome.

The remaining outdoor spaces are noted as Meditation areas, are existing spaces or are modest in size. No particular objection is raised.

- Conclusion

Objectors have raised concern in relation to the unreasonable impacts arising from the operation of the existing Synagogue. However, Council is unable to impose a limit on the number of people attending a religious facility such as the Emanuel Synagogue. It should also be noted that Council's CRM system (record of complaints from residents) does not note any objections relating to noise from the site.

The number of people on the site at any one time fluctuates substantially during a specific day and across the course of a whole week. There are a minimal number of people on the site during a normal weekday period (during school holidays) whilst it is possible that in excess of 1000 people can be on site during a High Holy Day, however, this occurrence is limited to a maximum of four days a year. In general, the level of use of the Synagogue is relatively low and concentrated to the use of the child care centre during weekdays and the use of the Synagogues on Fridays and Saturdays. This is not dissimilar to other religious congregations in the Woollahra municipality, with services being held on Saturdays and Sundays.

On this basis, the acceptability of the operation of the Synagogue and the noise emanating from the site is considered to be acceptable

### Views/outlook

The scale of the proposed development is modest – the proposed Conservative Synagogue building is partially below ground level and is less than 7.0m in height whilst the height of the new Administration/Community building is consistent in scale to the surrounding developments. Nonetheless, **Condition C1** requires the deletion of the first floor of the building in order to improve the visibility of the Temple Emanuel in the streetscape.

There are no views of note from surrounding properties. Any possible sightlines would be

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interrupted by the scale of the existing Temple Emanuel or the terrace house at 11 Ocean Street. Rather, the existing sightlines from surrounding properties are of vegetation in the immediate area with no significant view affected by the proposal. In this regard, no objection is raised.

Concern is raised, however, in relation to the scale of the proposed 'blast' security wall adjacent to the northern elevation of 5 Ocean Street on the grounds of sense of enclosure. This has been detailed elsewhere in the report.

### Solar access

Council normally considers the likely overshadowing impact by analysing the amount of solar access afforded to the north facing windows and private open space of adjoining properties between 9am and 3pm on June 21.

The submitted shadow diagrams indicated that there will be some additional overshadowing as a result of the proposed redevelopment. In noting whether it is considered acceptable, it is worth noting the following Commissioner observations made in *Parsonage v Ku-ring-gai Council (2004) NSWLEC 347*:

- The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained
- The ease with which sunlight access can be protected is proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight
- Overshadowing arising from poor design is not acceptable, even if it satisfies numerical guidelines
- For a window to be in sunlight, half its area should be in sunlight
- Overshadowing from vegetation should be ignored, except that vegetation may be taken into account in a qualitative way

It is considered that a satisfactory amount of sunlight is still provided to the north facing windows of 5 Ocean Street. Irrespective, **Condition C1** requires the deletion of the first floor of the building on heritage grounds and as such, a single storey structure in this location would not pose any further impact upon solar access.

Significant concern is, however, raised in relation to the 'blast' security wall along the southern boundary with 5 Ocean Street. The wall will be built to a height of 2.95m within 1.7m of the northern elevation. It is highly likely that additional overshadowing of north facing windows will eventuate. Even so, greater concern is raised in relation to the sense of enclosure and loss of outlook. For these combined reasons, the wall is to be limited to a height of 1.8m adjacent to the northern elevation in **Condition C1**.

The shadow diagrams also indicate that the roof garden on the storage area at the rear of 6 Woods Avenue will lead to additional overshadowing of the rear yard of 5 Woods Avenue such that less than 50% of the yard will receive sunlight for a period of two hours or more. This amount of overshadowing is considered to be unreasonable, particularly as it arises from a relatively small structure. The roof garden is therefore required to be deleted (see **Condition C1**).

The extent of solar access to the northern elevation of the residential flat buildings at 98 and 100 Wallis Street is acceptable as there is no reduction in solar access to north facing windows to less than three hours between 9am and 3pm on June 21. In addition, the main

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private open space areas for these properties is modest, the proposal will not reduce the extent of solar access to less than two hours for the same period.

Accordingly, subject to the changes outlined in **Condition C1**, the proposal is acceptable on solar access grounds.

### Stormwater/Groundwater

The Geological and Hydrogeological report submitted with the development application noted the following on page 7:

*'It is anticipated that the groundwater observed within the boreholes is associated with seepage flowing along the rock surface. Seepage may also be expected within fractured zones and joints in the underlying rock. During construction and in the long term, this seepage should be readily controlled by a 'sump and pump' dewatering system or perimeter drains used to direct seepage around the excavations to the stormwater drainage system.'*

Unlike low lying areas such as Double Bay and Rose Bay where the water table poses an issue, the pump and sump dewatering process on the subject site is incidental and common in the overall excavation phase. Verbal comment from Council's Development Engineer has indicated that the extent of dewatering is minor and will be resolved in the construction phase and as per **Conditions C8(d) and E4**, which require the excavation works on the site to be undertaken in accordance with the geotechnical report, and **Condition C11**, which requires a Stormwater Management Plan.

### Excavation

The proposal involves the following groundworks on the subject site:

- Excavation totalling approximately 700m<sup>2</sup> and 1800m<sup>3</sup> with an average depth of 2.6m for the basement level car park and access corridor to the Ritual Bath foyer
- Excavation totalling approximately 700m<sup>2</sup> and 1400m<sup>2</sup> with an average depth of 2.0m for the new Conservative Synagogue and associated foundation space surrounding it
- Excavation totalling 80m<sup>2</sup> and 220m<sup>3</sup> with a depth of 2.8m for OSD tanks and rainwater tanks
- Incidental groundworks associated with the construction of the boundary fence, 'blast' security wall, foundations, paving and feature ponds

Whilst a total volume of excavation in excess of 3500m<sup>3</sup> is relatively substantial, it is generally acceptable given the extensive size of the site, the depth of excavation being relatively shallow (maximum depth of 3.0m) and its siting generally away from property boundaries.

Council's Development Engineer has assessed the geotechnical/hydrogeological reports submitted with the development application and considers the extent of excavation to be satisfactory, subject to conditions requiring compliance with recommendations of the geotechnical/hydrogeological report, the preparation of dilapidation reports in relation to adjoining development, support for adjoining land and buildings and vibration monitoring programs.

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Nonetheless, with the subject site surrounded by seven residential flat buildings and truck movements likely to be extensive, some concern is raised in relation to the impact upon the amenity of surrounding properties during the excavation phase of the development.

The Construction Management Plan has been deemed satisfactory by Council's Development Engineer. It outlines that excavation will be undertaken in two phases:

- Stage 1 comprising excavation of the basement car park over a 21 day period with 6 truck movements on Ocean Street each day using 20 tonne trucks during non peak periods
- Stage 2 comprising excavation of the new Conservative Synagogue over a 35 day period with 6 truck movements on Woods Avenue using 12 tonne trucks during non-peak periods

Whilst the excavation phase will cause disturbance to surrounding residents, some impacts are unavoidable. The arrangements outlined in the Construction Management Plan, including works being undertaken during non-peak periods when residents are likely to be at work, will minimise disturbance in terms of noise, dust and vibration.

The Construction Management Plan outlines the likely daily truck movements and the site will be appropriately fenced during construction. The likely impact upon pedestrian movements is considered to be acceptable.

There are a variety of heritage items in the immediate vicinity of the subject site. In addition, the subject site has heritage items and potential heritage items within the site. Extensive precautions are outlined in the conditions in order to ensure that the heritage significance of the various items is not compromised. This includes **Conditions B3 and D2** in relation to the protection of the Moreton bay Fig adjacent to the Woods Avenue entrance as a result of truck movements associated with the excavation process. For example, the proposed trucks being used for the transportation of excavated material must be able to be accommodated without compromising the tree canopy of the Moreton Bay Fig.

Council's Trees Officer initially raised concern in relation to works in the immediate vicinity of the following trees:

- Heritage listed Moreton Bay Fig (Tree 32)
- Atlantic Cedar (Tree 21)
- Brown Pines (Tree 33 and 35)

As a result of the amended plans, the above issues have been suitably resolved and the proposal will ensure the adequate retention of natural vegetation on the site.

The depth of excavation is not excessive and the site is relatively flat. The proposal is considered to be acceptable with regard to the likely impact upon the natural water run-off patterns. Council's Development Engineer raised no objection to the proposed development on these grounds.

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### Availability of parking

The revised proposal no longer seeks to increase the number of children associated with the child care centre. As a result, the intensification/capacity of the site is summarised as follows:

- The child care centre is remaining unaltered at 60 places
- The Progressive Synagogue is remaining unaltered at 360 congregants
- The Renewal Synagogue is increasing from 60 to 100 congregants
- The Conservative Synagogue is increasing from 150 to 327 congregants
- The office space associated with the above is increasing by approximately 300m<sup>2</sup>

At present, the Synagogue operates from an external site on High Holy Days as the existing buildings on the site are unable to accommodate the congregation. The proposal seeks to consolidate the operation of the Synagogue within the one allotment by constructing an enlarged Progressive Synagogue. The number of congregants on High Holy Days between the current site and the proposed consolidation is likely to be similar.

- Ancillary office space

The proposed increase in office space is largely incidental to the overall shortfall. In the majority of cases, the offices will be in use outside of the hours that the Synagogue is being used. Accordingly, it is likely that the perceived parking demand during a weekday can be accommodated within the basement level car park, which comprises 14 car spaces.

- Child care centre

A similar stance is provided in relation to the child care centre. As the capacity of the child care centre is remaining unchanged, there is no additional demand for off-street car parking.

However, the age breakdown has been altered to accommodate 15 children aged between 0-2 years of age. This change was made as a response to concerns raised by Council's Traffic Section, which argued that Woods Avenue was ill equipped to accommodate any enlargement or intensification of the child care centre.

Woods Avenue is presently not used for the drop off or pick up of children as it is a cul-de-sac and this would present substantial traffic implications. Instead, children alight at Wallis Street and are met by traffic wardens associated with the child care centre, who then walk the children onto the site. There is no proposal to change this arrangement.

The drop off and pick up arrangements for 0-2 year olds is substantially longer than 3-5 year olds, with the average time being approximately seven minutes to drop off/pick up a baby. In this instance, this is exacerbated by the classroom for 0-2 year olds being located 100m from the closest possible parking spot in Wallis Street.

It is unfeasible and unreasonable to establish any drop off/pick up point or on-site parking for the child care centre due to concerns that would arise in relation to the root system of the Moreton Bay Fig, the likely traffic congestion in Woods Avenue, the on-site limitations imposed by the required size of the play area and safety implications to children.

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Whilst Council's Community Services section is very supportive of any new child care places for 0-2 year olds, it has been demonstrated that Woods Avenue is an inappropriate location for any enlargement or intensification of the child care centre or the pick up/drop off arrangement. This includes a change in age of the children accommodated at the centre.

In this regard, **Conditions C1 and I8** impose the existing restrictions upon the child care centre, ie 60 places for 3-5 year olds.

- Progressive Synagogue

As the capacity of the Progressive Synagogue is remaining unchanged, there is no foreseeable impact associated with its operation.

- Renewal Synagogue

The capacity of the Renewal Synagogue is increasing by 40 persons. This increase is considered acceptable on the basis that this space will be used on an intermittent basis or at times when services are not being undertaken in the two larger Synagogues.

- Conservative Synagogue

The primary issue relates to the expansion of the Conservative Synagogue. Parking within the basement level will not be used by congregants of the Synagogue, as the number of spaces is limited to 14. As such, the acceptability of the proposal hinges upon the impact that the expansion of the Conservative Synagogue from 150 to 327 congregants has upon the availability of parking on the local street network.

It is considered to be acceptable for the following reasons:

- The Synagogue currently operates with a significant shortfall in parking. This is typical of most religious institutions, particularly in the Woollahra municipality where on-site parking is not feasible or practical
- The Synagogue operates on Friday evenings and Saturday mornings, which is typical of most religious institutions that operate on weekends. Accordingly, the extent of the shortfall is limited to one or two services/days a week
- The High Holy days are limited to four days a year. It is unreasonable to impose restrictions upon the operation of the Synagogue given it is limited to only a few instances each year. This is typical of the approach applied for school fetes or similar activities where there is a significant shortfall in the number of car spaces
- The applicant has indicated that Jewish practice prohibits physical activity on the Sabbath, limiting the ability to drive to services. In addition, the Transport Management Plan indicates that a shuttle bus will operate prior and after Synagogue services. This forms **Condition F2**.
- The relocation of the services on High Holy Days from Queen Street to the subject site should not have a significant impact upon the number of congregants. The current premises in Queen Street are in walking distance of the subject site and so parking or transport habits are unlikely to change
- There is a distinct lack of parking in the immediate locality characterised by several residential flat buildings in the immediate vicinity of the Synagogue having with no off-street car parking



- Parking within a 100m radius of the Synagogue is a combination of one hour, two hour and all day parking. A clearway also exists during the evening period in Oxford Street. The following observations are likely to affect people's parking habits:
  - A resident parking scheme is in operation in the area. The Synagogue services occur on Friday night and Saturday morning when most residents are at home and the resident parking scheme is in operation
  - Notwithstanding the above, parking in the area is generally at a premium, with very few premises having off-street car parking
  - The restricted parking areas in John Street, Wallis Street and Woods Avenue allows for parking for one and two hours. Whilst not applicable in all cases, this is often outside of the length of Jewish services.
- The Synagogue is in very close proximity of several Eastern Suburbs bus routes on Ocean Street and Oxford Street, including 333 and 380 services

Accordingly, whilst the shortfall in parking is being increased as a result of the new Conservative Synagogue, it is acceptable on the basis that it is largely maintaining the current arrangement. Despite a numerical increase in the demand for off-street car parking, there is no perceived exacerbation of the issue as the proposal seeks to relocate the existing Synagogue from Queen Street to the subject site, the issue only arises on High Holy Days (4 days per year) and weekly services (2 days per week) when the current availability of on-street parking is low.

Many objections received during the notification period conveyed concerns in relation to the impact upon street parking. Many related to the operation of the child care centre (resolved by **Condition C1**). However, it is acknowledged that the current parking availability is low yet the proposal is not likely to exacerbate this issue.

This is contrary to comment received by Council's Traffic section, which stated '*as the area is already subject to a moderate - high level of parking demand, a continuation of this is unsatisfactory and therefore, Council's Traffic Section does not support the proposed development application.*'

However, as has been argued above, the specific circumstances of the site are such that refusal of the application on traffic and parking grounds is not warranted. Nonetheless, appropriate measures to ameliorate some of the issues currently evident in the running of the Synagogue have been detailed in **Condition F2**.

#### **4. What is the internal amenity?**

*Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.*

With the exception of the child care facilities, the internal amenity of the buildings is not of paramount concern given the non-residential nature of the development. Nonetheless, the internal amenity of the various buildings on the site is adequate for the following reasons:

- The child care centre classrooms and play area above the new Conservative Synagogue have ample access to sunlight
- The Progressive Synagogue is largely maintained
- The new Renewal Minyan has an open easterly aspect

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- The Administration/Community building near Ocean Street is suitably designed to accommodate cross ventilation and access to sunlight

## 12. OTHER CONSIDERATIONS

The following matters for consideration are based on the provisions of environmental planning instruments and policies that do not derogate (detract) from the existing use rights provisions.

### 12.1 Section 94A Contribution Plan

In accordance with Schedule 1 of the Woollahra Section 94A Contributions Plan, a 1% levy (of the total cost of works) applies. With an estimated cost of works of \$10,469,380, a payment of \$104,693 would be required, which will be used for a variety of works as outlined in Schedule 2 of the Section 94A Contributions Plan. Refer to **Condition C2**.

### 12.2 Section 94 Contribution Plan

The Woollahra Section 94 Contribution Plan is not applicable.

### 12.3 Woollahra Local Environmental Plan 1995

#### Aims and objectives of Woollahra LEP 1995 and zone (Clause 8(5))

The proposal is acceptable with regard to the aims and objectives outlined in Part 1.2(2) of the Woollahra LEP 1995, including the following:

*(c)(ii) to provide opportunities for the development of community services and facilities in appropriate areas*

There is a distinct demand in the Jewish community for the proposed redevelopment of the Temple Emanuel

*(g)(ii) To ensure that new development is undertaken in a manner that is sympathetic to and does not detract from the heritage significance of heritage items*

*(g)(iv) to enable the adaptation of existing non-residential buildings of heritage significance in a manner which is compatible and sympathetic with the fabric and character of the building or works and the use and fabric of neighbouring lands*

Subject to **Condition C1**, the heritage significance of the subject site, surrounding heritage items, the Ocean Street and Woods Avenue streetscape and the Woollahra heritage conservation area are suitably maintained.

*(k)(liii) to require that design and siting of new development enhance the attributes of its site and improve the quality of the public environment*

Council's Urban Design Officer reviewed the revised design and considered the proposal to be satisfactory within the Ocean Street streetscape.

*(l)(iii) To protect trees and significant vegetation and the native flora and fauna (as a result of excavation)*

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Council's Trees and Landscape Officer reviewed the revised design and considered the proposal to be satisfactory in terms of the protection of all trees that are to be retained.

- (l)(i) To minimise any impact upon the amenity of the neighbourhood*
- (l)(iv) To avoid potential damage to neighbouring public and private land and buildings which may result from the proposed excavation works*
- (l)(iv) To avoid potential damage to neighbouring lands and private land and buildings which may result from the proposed excavation works*

Council's Development Engineer reviewed the revised design and considered the proposal to be satisfactory on geotechnical grounds. The extent and siting of excavation is appropriate in terms of its relationship and separation from adjoining structures. The Construction Management Plan is also considered to be satisfactory.

Given the extensive scope of works and the large number of surrounding residents, it is considered appropriate to apply **Condition B2**, which requires the applicant to liaise with surrounding residents prior to the commencement of the construction phase.

#### Clause 12 Height

If it were applicable, the proposal would comply with the maximum building height control of 9.5m. In addition, the proposal will maintain the amenity of surrounding properties on the basis of view retention, access to sunlight and acoustic and visual privacy. It is also consistent with the scale of surrounding development.

#### Clause 11 Floor space ratio

There is no applicable floor space ratio control for the subject site nor would a control apply given that existing use rights apply. However residential flat buildings to the south and south west of the site have permissible floor space ratios of 0.75:1. (As dictated in the Woollahra HCA DCP 2003, dwelling houses to the east and north have a maximum floor space ratio control based on the site area of between 0.60:1 and 1.07:1).

The proposed development has an approximate gross floor area of 3910m<sup>2</sup> or a floor space ratio of 0.97:1. This includes all of the floor area within the basement level car park, the plant room under the new Conservative Synagogue and the existing void space within the Progressive Synagogue. When excluding the basement level, the visible floor space ratio is reduced to approximately 0.83:1.

This is consistent with the scale of residential dwellings to the east and north and significantly less than the scale of three, four and five storey residential flat building developments within the Residential 2(b) zone to the south.

#### Clause 18 Excavation

Clause 18 of Woollahra LEP 1995 requires Council to give consideration to the impact that any proposed excavation will have on the subject site and adjoining properties.

Having regard to the specific heads of consideration, the proposal is considered to be acceptable with regard to Clause 18 of Woollahra LEP 1995. This is discussed in detail in Section 11 (Part 3).

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### Clause 25 Water, wastewater and stormwater

Clause 25(1) and (2) of WLEP 1995 requires Council to consider the provision of adequate stormwater drainage and the provision of adequate water and sewage services. The proposal is considered to be acceptable in terms of Clause 25(1) and (2) of Woollahra LEP 1995, subject to **Condition C11**.

### Clause 25D Acid Sulphate Soils

The subject site is within a Class 5 Acid Sulphate Soils Area as identified in the Planning NSW Acid Sulphate Soils Risk Map. However, the subject works are not likely to lower the water table below 1.0m AHD on any land within 500m of a Class 1, 2, 3 and 4 land classifications. Therefore, there is no issue of acid sulphate affectation in this case.

### Clause 26 Heritage Items

Clause 26 requires Council to consider the likely heritage impact arising from the proposed development. The subject site comprises two heritage items - a Moreton Bay Fig at the rear of the site and 6 Woods Avenue, which comprises the staff amenities of the child care centre, with the listing relating to the terrace house and the front fencing.

The Temple Emanuel (synagogue complex of buildings and grounds) has also been included in draft Woollahra LEP (Amendment No. 66) to be listed as a heritage item. This includes the Neuweg Sanctuary building and the Main Progressive Synagogue. The draft LEP is yet to be gazetted but has finished its exhibition period and therefore there is more certainty that the amendment will be gazetted (see Section 12.4).

The heritage significance of the existing heritage items and proposed heritage items is discussed in detail in Section 11 (Part 3). The conclusion is that the Moreton Bay Fig will be suitably retained, the works to 6 Woods Avenue have been considered sympathetic (by Council's Heritage Officer) and the demolition of the Neuweg Synagogue is acceptable. However, the dominance of the new Administration/Community building is unacceptable when viewed from Ocean Street and the first floor level is to be deleted in **Condition C1** in order to maintain the visual corridor to Temple Emanuel.

### Clause 27 Development in the vicinity of a heritage item

Clause 27 requires Council to consider the likely impact of a proposed development upon surrounding heritage items in the vicinity of the subject site. Along with the subject property, the terrace houses at 1-5 and 10-19 Woods Avenue and 102-118 Wallis Street (to the east) and 14 Waimea Avenue (Helen Keller House) are listed as heritage items.

The heritage significance is confined to the Woods Avenue streetscape. The proposed redevelopment of the site will not have an undesirable impact upon the surrounding heritage items because the works are suitably removed from the heritage items, located to the rear of the premises in Woods Avenue or not readily discernible from the Woods Avenue streetscape. Nonetheless, the scale and siting of the proposed additions are appropriate. In this regard, the proposal is acceptable with regard to Clause 27.

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### Clause 28 Heritage conservation area

Clause 28 requires Council to consider the likely impact of a proposed development on the heritage significance of a heritage conservation area. In this instance, the subject site is located within the Woollahra heritage conservation area.

The redevelopment of the Temple Emanuel is generally acceptable in terms of Clause 28 due to the appropriate nature of the design and its separation from the streetscapes of Ocean Street and Woods Avenue.

Of the works fronting the street, the Woods Avenue appearance remains appropriate, with the facade of 6 Woods Avenue retained and appropriate precautions in place to protect the Moreton Bay Fig that is prominent in the streetscape. However, the scale of the new Administration/Community building on Ocean Street is excessive and interrupts the open appearance of the forecourt in front of the Progressive Synagogue and the sightlines to the façade of the Synagogue. **Condition C1** therefore deletes the entire first floor level of the Administration/Community building. In doing so, the proposal will be acceptable with regard to Clause 28.

### Clause 33 Heritage notifications

Clause 33(1) states that where the proposal seeks to demolish a building or work that is a heritage item, the Council shall not grant consent to that application unless the Council has notified the Heritage Council of its intention to grant consent and the Council has taken into consideration any objection made by the Heritage Council. Clause 33(2) states that the above does not apply *'to the partial demolition of a heritage item if, in the opinion of the Council, the partial demolition will be of a minor nature and will not adversely affect the heritage significance of the heritage item or of any heritage item group of which the item is part, in relation to the environmental heritage of the Woollahra area.'*

The heritage listing relates to the terrace house at 6 Woods Avenue and the Moreton Bay Fig alongside it. The proposed heritage listing under Amendment No. 66 to the remainder of the buildings has not been gazetted and is not relevant in this instance. Very little modification is proposed to 6 Woods Avenue and the Moreton Bay Fig is to be fully protected. Council is therefore of the opinion that the demolition is of a minor nature and will not adversely affect the significance of the heritage item or any adjoining heritage items. Notification to the NSW Heritage Council is not considered necessary.

## **12.4 Draft Woollahra Local Environmental Plan 2003 (Amendment No. 66)**

Amendment No. 66 to Woollahra LEP 1995 was being prepared at the time of the lodgement of the development application on 14 July 2009. It was placed on exhibition from 9 December 2009 to 19 February 2010 and is due to be tabled to Council again in May/June 2010.

The Temple Emanuel (synagogue complex of buildings and grounds) has been included in draft Woollahra LEP (Amendment No. 66) to be listed as a heritage item. This includes the Neuweg Sanctuary building and the Main Progressive Synagogue. At present, it is unlikely that the heritage listing for Temple Emanuel will be removed following the exhibition of the draft LEP.

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Given the exhibition period is finalised, there is a sufficient level of certainty that the amendment will be gazetted and as such, the heritage significance of the potential heritage items has been taken into account as part of this assessment.

## **12.5 Woollahra Heritage Conservation Area Development Control Plan 2003**

### Precinct Controls

The subject site is located in the Nelson precinct. The Woollahra HCA DCP 2003 includes Temple Emanuel as a culturally significant building, with the following explanation:

*'Temple Emanuel, set back from Ocean Street behind a leafy forecourt. A landmark inter-war brick building, it is decorated with symbolic patterns, and cast stone panels with religious motifs in low relief on the front elevation. The adjacent Neuweg Chapel has details influenced by the original synagogue.'*

It is important to retain the significance of the Temple Emanuel as described above. The proposed development is largely achieving the above intent. Whilst there will be improved buildings and landscaping on the site, the height of the Administration/Community building and the 'blast' security wall present the most pressing concerns. These issues have been addressed elsewhere in the report.

No controls apply to the site.

### Significant items and group significant buildings

The proposal is generally acceptable with regard to the controls outlined in Section 3.2. The aforementioned issues relating to the Administration/Community building and 'blast' security wall have been addressed elsewhere in the report.

### Building Type Controls

Section 3.3.4 relates to building controls for terrace houses. Specifically, they relate to retaining the side elevations and original party walls of the principal building form.

Alterations and additions are proposed to 6 Woods Avenue, including an addition to the side of the dwelling and the removal of several walls at the rear. Council's Heritage Officer and Urban Design Officer both raised no objection to these changes. Whilst clearly altering the form of the heritage listed building, it has been sympathetically done. It has been designed with regard to its relationship with the heritage listed Moreton Bay Fig immediately adjacent to it and as the principal building form is retained. Accordingly, no objection is raised.

Section 3.3.10 relates to building controls for religious, institutional and public buildings and requires proposals to conform to management policies in a Conservation Management Plan.

Despite the absence of an adopted Conservation Management Plan, the proposed changes are considered to be satisfactory on conservation grounds.



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### Buildings and elements adjoining heritage items

C1 of Section 3.4.1 seeks to ensure that development is designed so that it has no adverse impact upon a heritage item or its setting or curtilage. As demonstrated with regard to Clause 27 of Woollahra LEP 1995, the proposal is acceptable.

### Building location

C5 of Section 3.4.3 requires site cover to be consistent with surrounding properties. In this instance, the proposal is increasing the site coverage to approximately 1600m<sup>2</sup> or 40% of the site. This is consistent or less than the site coverage of surrounding residential properties, which is acceptable.

C9 requires excavation to be setback 1.5m from property boundaries. In this instance, excavation for the basement level carpark will be 0.6m-1.8m of the northern boundary and excavation for the sub floor space of the new Conservative Synagogue will be within 1.0m of the southern boundary and 1.0m of the western boundary. Further excavation associated with the footings of the 'blast' security wall will occur on the property boundary.

However, geotechnical precautions on a development of this scale will ensure the integrity of surrounding properties.

Overall, the development achieves an appropriate front setback to the street (as measured at the fence line). Furthermore, the location of the buildings allows for an improvement in the provision of deep soil landscaping, landscape character and mature trees on the site.

### Building height, form, bulk, scale and character

C1 of Section 3.4.4 requires consistency in height, bulk and scale. It has been demonstrated throughout the report that the scale and distribution of the buildings is appropriate with respect to the predominant form of development in the locality.

C8, C9 and C10 relate to the retention of solar access and views, which have been discussed in Section 11 (Part 3) of the report.

### Materials, finishes and colours

The proposal is acceptable with regard to Section 3.4.5.

### Open space and landscaping

Despite the removal of 22 trees, 58 new trees are proposed. In addition, additional deep soil landscaping is proposed. The landscape character of the site is vastly improved and the proposal is considered to be acceptable with regard to Section 3.4.6.

### Fences, gates and retaining walls

C5 of Section 3.4.7 limits the height of front fences to 1.5m whilst C6 limits side fences to 1.8m in height. Finally, C1 requires that new fences be of a form, height, details, materials, finishes and quality appropriate to the architectural style and building type of the existing building.

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It is acknowledged that that proposed 'blast' security wall along the side boundaries and the Ocean Street frontage does not satisfy the above requirements, including being consistent with the existing building on the site. However, the applicant is seeking special dispensation for a fence to a height of 3.2m on the basis of security/terrorism fears.

The appropriateness of the front and side fences is discussed in Section 11 (Part 3).

#### Roofs and skylights

The proposal is acceptable with regard to Section 3.4.8.

#### Parking and garages

Refer to Section 11 (Part 3) and Section 12.7.

#### Security

Section 3.4.10 seeks to minimise obtrusive security elements within a development. Whilst clearly visible in the streetscape and from adjoining properties, the proposed 'blast' security wall is considered to be acceptable on merit. It is discussed in detail in Section 11 (Part 3).

It also allows for security guards to be housed within the perimeter of the site, which will help to alleviate some concerns raised by surrounding residents regarding the alleged behavior and attitude of security guards protecting the Synagogue.

#### Acoustic and visual privacy

C7, C9 and C10 of Section 3.4.12 all stipulate that balconies and windows are designed so as to minimise overlooking to the private open space areas of adjoining properties.

Comments in relation to the provision of acoustic and visual privacy to the numerous surrounding residents are discussed in Section 11 (Part 3).

#### Stormwater management

The proposal is acceptable with regard to Section 3.1.4.13.

#### Site facilities and aerial devices

C1 to C4 of Section 3.4.14 outlines requirements for service infrastructure, air conditioning units and similar appliances, television aerials and site facilities such as garbage areas.

Subject to **Condition A3**, the proposal is considered to be satisfactory.

#### Energy efficiency

The proposal is acceptable with regard to Section 3.1.4.15.

### **12.6 Woollahra Access DCP**

The various elements of the proposed development constitute differing classes of buildings under the Woollahra Access DCP. These include Class 5 (office building), Class 7 (carpark) and Class 9 (assembly building or child care centre). In general, the provisions of

the Woollahra Access DCP require the provision of adequate access to the development by all people in the community including people with disabilities. Regardless, the proposal is required to be fully accessible.

The proposal comprises a lift within the proposed Renewal Minyan space. It allows level access from the basement level car park below the Administration/Community building to each level of the Renewal Minyan, the Progressive Synagogue and the classrooms. Elsewhere, ramps throughout the site and from the Progressive Synagogue allow level access between Woods Avenue, the child care centre and classrooms, the new Conservative Synagogue (and play area above), the ground floor of the new Administration/Community building and the forecourt areas throughout the site.

The only part of the development that is not accessible is the first floor of the Administration/Community building, which is confined to offices for the operation of the Synagogue. Whilst this may have been considered appropriate, **Condition C1** requires the deletion of the first floor level in its entirety. This negates any potential access issues.

On this basis, subject to **Condition C1**, the proposal is fully compliant and satisfactory with regard to the Woollahra Access DCP.

## 12.7 Woollahra DCP for Off-Street Car Parking

Were it applicable in this instance, the Woollahra DCP for off-street car parking stipulates that Churches (places of assembly) and halls require 22 spaces/100m<sup>2</sup>. Child care centres also require 0.5 spaces/100m<sup>2</sup> whilst office space requires 2.0 spaces.

Section 1.4 states that where premises are proposed to be used for more than one purpose, the parking provision shall be such as to satisfy the requirements of this DCP in relation to each purpose.

The existing parking arrangement comprises approximately 14 informal car spaces within the front forecourt although it is likely that only eight vehicles are able to be parked legally in this space. The existing uses result in the following parking generation rates:

Building/Use	Area	Parking Rate (per 100m <sup>2</sup> )	Parking Spaces Required
Synagogue	1230m <sup>2</sup>	22 spaces	270.6 spaces
Child Care	330m <sup>2</sup>	0.5 space	1.65 spaces
Office space	280m <sup>2</sup>	2 spaces	5.6 spaces
Total			278 spaces

Existing parking generation rate

Accordingly, there is a shortfall of 264 spaces.

The proposed redevelopment comprises a formal basement car park for 14 vehicles below the new Administration/Community building. The proposed redevelopment results in the parking following generation rates:

Building/Use	Area	Parking Rate (per 100m <sup>2</sup> )	Parking Spaces Required
Synagogue	1500m <sup>2</sup>	22 spaces	330 spaces
Child Care	490m <sup>2</sup>	0.5 space	2.4 spaces
Office space	580m <sup>2</sup>	2 spaces	11.6 spaces
Total			344 spaces

Proposed parking generation rate

Accordingly, the intensification of the site will require an additional 66 car spaces, with additional parking required for the child care centre, offices and Synagogue. The shortfall is increasing from 264 spaces to 330 spaces.

Of particular note, the office space and child care centre components of the development require 14 spaces. The basement level car park provides parking for 14 vehicles.

Council must consider the following when justifying a shortfall in off-street car parking:

- The scale and nature of the development and its traffic generation
- The availability of other public parking areas in the vicinity of the development
- The availability of public transport to serve the development
- Traffic volumes on the road network in the area of the development
- the probable mode of transport of users to and from the development; whether the development warrants special consideration as an Item of Environmental Heritage
- The characteristics of the streetscape and the site, particularly the subdivision pattern, topography, street design and width, street tree planting, on-street parking or loading spaces and any existing access arrangements

The above issues have been discussed in the Traffic Report submitted by the applicant and in the assessment undertaken by Council's Traffic section. The Traffic report is attached at Annexure 12.

The main issues to consider include:

- The proposed parking situation is similar to other Church congregations in the Municipality, the Synagogue currently operates with a significant shortfall in parking
- Albeit to a greater scale than other Churches, the shortfall is primarily confined to one or two services/days a week and only four days a year in the case of High Holy days
- There is a distinct lack of parking in the immediate locality characterised by residential flat buildings with no off-street car parking
- It is acknowledged that the arrangements for the child care centre were inadequate and therefore deleted in **Condition C1**. Furthermore, any on-site parking or drop off/pick arrangements are not possible for a variety of reasons

These and other issues are discussed in Section 11 (Part 3).

## 12.8 Woollahra Child Care Centre DCP

The child care originally sought to increase the number of children from 60 places to 80 places, with the additional spaces provided for 0-2 year olds. However, following concerns raised in relation to traffic management in Woods Avenue and noise issues to adjoining properties, the number of children was maintained at 60. Despite Council's Community Services section expressing disappointment in relation to the loss of 20 child care places,

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however, on a planning basis, it was agreed that Woods Avenue cannot sustain any likely increase in child care places.

Accordingly, the proposal now seeks to redevelop the centre of the site to provide four separate classrooms for 15 children each. One classroom will be provided for 0-2 year olds and the remaining 45 spaces will be for 3-5 year olds (subsequently deleted in **Conditions C1 and I8**). A central play area will be located above the new Conservative Synagogue and alongside the classrooms. Staff and administration facilities will be consolidated within the terrace house at 6 Woods Avenue.

The hours of operation will still be from 8:30am to 3:30pm. The number of staff will increase from 9 to 12.

The Woollahra Childcare Centre DCP outlines the following objectives:

- a) *To encourage high quality child care centres to meet the child care needs of the community and which are in the public interest.*
- b) *To ensure child care centres are appropriately designed and located to minimise the adverse environmental impact to surrounding properties in terms of privacy, traffic generation and availability of on-street parking.*
- c) *To ensure adequate parking is available for the dropping off and picking up of children and to provide for the safe pedestrian transfer of children to and from the centre.*
- d) *To ensure child care centres are appropriately designed to a high level of safety, security, environmental health and amenity for their users.*
- e) *To ensure the physical environment of child care centres are safe and well equipped in accordance with the applicable statutory requirements and standards.*

#### Design and siting

C 2.1.1 requires consideration of the following when designing and siting a child care centre:

- Site orientation and solar access

The siting of the classrooms to the south of the site or to the rear of the existing Progressive Synagogue allows for a generous northerly aspect and substantial solar access to the interior of the classrooms. This also allows a central play area which will take advantage of sunlit grassed areas. In addition, immediately adjacent to the grassed area is a covered shade area south of the Progressive Synagogue.

- Existing vegetation

An adequate amount of mature vegetation along the southern boundary will be retained in the curved design of the classrooms. Shading for children is provided in the form of the aforementioned trees and the covered outdoor space.

- Topography

The outdoor play area on the roof of the new Conservative Synagogue will be level.

- 
- Retention of any special features/qualities of the site

There are no special features or qualities of the site.

- Views to and from the site

There are no views of note as the child care centre is located in the centre of the site.

- Access (vehicular and pedestrian) to and from the site

Pedestrian access to the centre of the site is provided via the driveway alongside 6 Woods Avenue. It will be built in accordance with conditions applied by Council's Trees Officer and outlined in the arborist report in order to ensure the integrity of the Moreton Bay Fig.

This access will be pedestrian only during the hours of operation for the child care centre (8:30am-3:30pm). Service access is allowed outside of these hours.

- Location and uses of surrounding buildings

Surrounding dwellings are residential and are located on medium sized allotments. The continued use of a child care centre on the subject premises is permissible and appropriate in the residential context.

- Predominant built form and character

The scale of the proposed classrooms integrated into the design of the Emanuel Synagogue is modest and does not dominate the main Progressive Synagogue.

- The provision of windows to allow for access to natural light and views to the outdoors
- Well proportioned windows which allow natural light into rooms

The extent of fenestration allows natural light to the interior of the classrooms.

- Access to natural cross ventilation.

Cross ventilation is achievable and likely given the generous outlook across the play area afforded to the two new classrooms at the southern edge of the battle-axe allotment.

C2.1.3 also requires child care centres to be designed and sited so as to minimise disturbance to adjacent, nearby and surrounding properties.

The child care centre presently provides for 60 children. The proposal, as amended, does not seek to alter this number.

The redesign of the child care centre will reduce disturbance to surrounding properties by locating the new classrooms along the southern boundary. The circular design of the building and acoustic walls will ensure noise to adjacent properties is maintained.

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### Visual and acoustic privacy

C 2.3.2 states the need for a centre operation plan, which demonstrates how the child care centre will minimise noise impacts on adjoining properties and include, but not being limited to addressing noise generating activities such as outdoor play areas; vehicular activity and delivery vehicles.

The Child Care Centre Plan of Management submitted with the development application noted two periods of outdoor play area - 8:30am-9:30am (extended during summer months to avoid exposure to the sun) and 10:45am-12 midday. This totals two hours and 15 minutes of outdoor play.

Council's Health Officer has indicated that the proposed documentation shows that the proposal complies with C2.3.2. However, this is only achieved when subject to **Condition 18**, which limits outdoor play to a maximum of two hours.

C 2.3.4 requires the location of open spaces and playground areas to be designed so as to minimise views from neighbouring and surrounding properties.

The play area will be in the centre of the site and will be screened by the classroom building along the southern and eastern sides, the existing Progressive Synagogue on the northern side and vegetations screening along the eastern side. There are also existing mature trees along the southern boundary limiting sightlines. In this regard, views to the play area are possible but not of significant concern.

### Indoor and outdoor areas

C 2.4.5 requires outdoor play spaces are to be/have:

- Immediate access to toilets

There is provision for ten toilets in five separate locations throughout the child care centre, including one accessible toilet. Three of these locations open onto the outdoor spaces. This is considered to be acceptable.

- Located to the northern or north-eastern end of the site

The primary play area is located above the new Conservative Synagogue, is elevated above ground level and has an immediate northern/north eastern aspect. This is considered to be adequate.

- Located away from the main entrance of the child care centre, car parking area or vehicle circulation areas

The play area is in the centre of the site and is 26m from the main entrance and vehicle movements on Woods Avenue. This is adequate separation.

- Enables clear sight lines to all areas from other areas of the child care centre

Clear sightlines are provided throughout the play area and from the classrooms.



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- Provide adequate separation from the living/bedroom windows of surrounding dwellings

Dwelling houses and units within multi-storey residential flat buildings surround the site on all sides. However, the play area will be in the centre of the site and will be screened by the classroom building along the southern and eastern sides, the existing Progressive Synagogue on the northern side and vegetations screening along the eastern side. This is considered to be adequate.

- Adequately fenced on all sides

Fences and/or balustrades are required where appropriate in accordance with the Building Code of Australia. Elsewhere, **Condition C1** requires fencing to limit the movement of children to areas deemed to be unsafe.

- A rainwater tank with a minimum capacity of 2,000 litres

One of two rainwater tanks is located under the Kiddush courtyard. Its capacity is estimated to be at least 40,000L. It will be accessible for use for the child care centre.

- At least half the outdoor area is to be unencumbered and available for free vigorous play and is to include a variety of surfaces such as grass, sand, hard paving and mounding

The two play areas provide sufficient covered and uncovered space for vigorous play. A variety of surfaces are proposed.

- An area for the adequate storage of garbage and recycling bins

Refer to **Condition C1**.

#### Traffic, parking and access

C 2.5.3 requires on-site vehicular movements to be separated from pedestrian access by safety fencing, gates or other means. The child care centre arrangement does not allow for any on-site vehicular movement during child care centre operating hours.

C 2.5.5 requires adequate on-street parking for drop-off/pick up and parking where on-site parking, drop-off/pick-up area, or a one-way driveway cannot be provided.

This issue initially caused significant concern because of the proposal to increase the number of child care centre places from 60 to 80. However, following the submission of revised plans, the increase in places is no longer proposed. As previously discussed in Section 11 (Part 3), further concerns were raised in relation to the additional times required for the drop off and pick up of children under two years of age. It demonstrated that the location of the child care centre is inappropriate to accommodate an intensification of the centre in any manner. As such, the number of places and age breakdown is to remain unchanged – see **Condition C1**.

With regard to the above and as outlined in Section 11 (Part 3), the proposed drop off/pick up arrangements are considered to be reasonable given the child care centre already has approval and due to the unique constraints of the site. It is unfeasible and unreasonable to

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establish any drop off/pick up point or on-site parking for the child care centre due to concerns that would arise in relation to the root system of the Moreton Bay Fig, the likely congestion in Woods Avenue, imitations imposed by the required size of the play area and the likely safety implications for children.

### Annexure 1

Section 3.1 requires a minimum of 3.25m<sup>2</sup> of unencumbered indoor play space per child that is exclusively for the use of children. In calculating the indoor space, areas such as storage, cupboards or door swing areas have not been included.

Each of the floor classrooms has 15 children and 64m<sup>2</sup> of unencumbered space. This equates to 4.26m<sup>2</sup>/child, which complies with the requirements of Section 3.1.

Section 3.2 relates to the provision of services within the indoor spaces, including administration, staff respite, laundry, craft preparation space, kitchen, nappy change facilities, toilets, general storage, waste storage and storage for sleeping materials.

All of the above requirements are met within the classrooms or 6 Woods Avenue, with the exception of a craft room, kitchen and waste storage facilities. This is required in **Conditions C1 and I6** respectively

Section 3.3 requires a minimum of 7m<sup>2</sup> of useable outdoor play space per child.

There is approximately 435m<sup>2</sup> of outdoor (covered and uncovered) play area for 60 children. This equates to 7.25m<sup>2</sup> per child, which complies with the requirements of Section 3.3.

Furthermore, Section 3.3 reiterates requirements outlined in *Shade for Child Care Services* (published by the NSW Cancer Council and NSW Health Department) which requires shading within each play area. Approximately 140m<sup>2</sup> of the 435m<sup>2</sup> of space is to be covered, which is acceptable.

The proposal is therefore acceptable with regard to the Woollahra Child Care Centre DCP.

## **13. APPLICABLE REGULATIONS**

### Clause 92 of the EP&A Regulation 2000

Clause 92 of the EP&A Regulation 2000 requires that Council take into consideration Australian Standard AS 2601-1991: The demolition of structures, as in force at 1 July 1993. This requirement is addressed via **Condition E19**.

### Children's Services Regulation 2004

The Children's Services Regulation 2004 applies to the implementation and operation of child care centres. Council's Health Officer has undertaken an extensive assessment of the development application against a variety of controls in the regulation and has considered the proposal to be acceptable, subject to certain requirements outlined in **Condition C1 and I8**. These include:

- a) Facilities and equipment requirements
- b) Staffing requirements

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- c) Operational requirements (including food and nutrition and storage of dangerous substances and equipment)

## **14. THE LIKELY IMPACTS OF THE PROPOSAL**

All likely impacts have been addressed elsewhere in the report.

## **15. THE SUITABILITY OF THE SITE**

The total site area is almost 4000m<sup>2</sup>, which is sufficient to accommodate the scale of the proposed redevelopment. It is unfeasible to provide parking on the subject site but this shortfall has been considered to be acceptable. In this regard, the site is considered to be suitable for the proposed development.

## **16. SUBMISSIONS**

### **16.1 Notification and Advertising**

The proposal was first advertised and notified in accordance with Council's Advertising and Notifications DCP from 22 July 2009 to 5 August 2010. Submissions were received from the following residents:

- |   |                                  |
|---|----------------------------------|
| 1. Richard Sweeting                       | 6/1 Ocean Street, Woollahra      |
| 2. Claire Wainwright and John March       | 4/3 Ocean Street, Woollahra      |
| 3. Mr Philip J F Corlette                 | 12/1 Ocean Street, Woollahra     |
| 4. Ms Patricia Jones                      | 17 Woods Avenue, Woollahra       |
| 5. Mr John Cowpe                          | 14/1 Ocean Street, Woollahra     |
| 6. Mr Bart Maiorana                       | 3/5 Ocean Street, Woollahra      |
| 7. Ms Yvonne Aris                         | 11 Ocean Street, Woollahra       |
| 8. Ms Yvonne Boswell                      | 4/5 Ocean Street, Woollahra      |
| 9. Mr David C Glenn                       | 3/137 Queen Street, Woollahra    |
| 10. Hayley Killigrew and Richard Sweeting | 6/1 Ocean Street, Woollahra      |
| 11. Tony and Diana Vinson                 | 1a Woods Avenue, Woollahra       |
| 12. Mr Angelos Frangopoulos               | 5 and 7 Bowden Street, Woollahra |
| 13. Peter and Mandy Gray                  | 2A Ocean Street, Woollahra       |
| 14. Ms Jill Karhan                        | 77 John Street, Woollahra        |
| 15. Mr Steven Herman                      | 17 Ocean Street, Woollahra       |
| 16. Ms Gwenda Kelly                       | 14 Waimea Avenue, Woollahra      |
| 17. Mr Dan Kelly                          | 1/10 Woods Avenue, Woollahra     |
| 18. Ms Heidi Moore                        | 5 Woods Avenue, Woollahra        |
| 19. Ms Johanna Stark                      | 8/5 Ocean Street, Woollahra      |
| 20. Dawn and David Beal                   | 93 John Street, Woollahra        |
| 21. John Landers and Linda Sweeney        | 97 John Street, Woollahra        |
| 22. P G Lowe                              | 3/ 4 Nelson Street, Woollahra    |
| 23. Stefan Mano and Leah Pavlis           | 15 Woods Avenue, Woollahra       |
| 24. Ms J I Batiste                        | 2/5 Ocean Street, Woollahra      |
| 25. Mr John Weickhardt                    | 91 John Street, Woollahra        |
| 26. Mr Brenton McEwan                     | 1/5 Ocean Street, Woollahra      |
| 27. Len Gervay                            | 4/98 Wallis Street, Woollahra    |
| 28. Dr Camille Wu                         | 8/100 Wallis Street, Woollahra   |

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The objectors raised the following issues:

- Loss of sightlines/outlook (from 98 and 8/100 Wallis Street and 1/5 Ocean Street)

The above concerns relate more to the loss of outlook or a sense of enclosure rather than any loss of view. The concerns relate to the construction of the new Conservative Synagogue and Administration building from Ocean Street and Wallis Street respectively.

The two structures will have a height of RL79.9 and 81.38. This is significantly less than the buildings surrounding them, including the existing Temple Emanuel (RL 85.26) and other residential flat buildings.

There is no perceived loss of outlook.

- Loss of view of Synagogue from John Street

Concerns have been raised throughout the report in relation to the loss of view from the streetscape, including John Street, of the Temple Emanuel as a result of the new Administration/Community Building. **Condition C1** required the deletion of the first floor in order to resolve this concern.

- Protection of trees
- Loss of trees/landscape character
- Loss of open space

The proposal involves the removal of 22 trees and the planting of 58 new trees. The design of the new development is such that the amount of open space is largely unchanged, however, the landscape character of the site is improved.

Council's Trees Officer has imposed a variety of conditions on the protection of all trees to be retained, including the heritage listed Moreton Bay Fig. These conditions are outlined in **Conditions B3, B4, D5 and E10-E14**.

- Loss of solar access
- Loss of visual and acoustic privacy
- Sense of enclosure
- Over development of the site

Refer to Section 11 (Part 3).

- Subsurface water flows from properties in Wallis Street

The Synagogue (RL < 74.75) is lower than the rear yard of the residential flat buildings in Wallis Street (RL > 75) and will not affect subsurface water flows to these properties.

- Enlargement of child care centre
  - Woods Avenue is not able to cope with drop off/pick up arrangements at the child care centre
  - Availability of on-street parking
  - Additional traffic wardens are required for drop off/pick up arrangements
  - Pedestrian crossing should be installed in Wallis Street
  - Pedestrian risk in Woods Avenue

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The proposal no longer seeks to increase the number of places within the child care centre. It will be retained at 60 places. This change was made as a response to concerns raised by Council's Traffic Section, which argued that Woods Avenue was ill equipped to accommodate any enlargement or intensification of the child care centre.

Woods Avenue is presently not used for the drop off or pick up of children as it is a cul-de-sac and this would present substantial traffic implications. Instead, children alight at Wallis Street and are met by traffic wardens associated with the child care centre. There is no proposal to change this arrangement. Accordingly, there is no change to pedestrian safety in and around Woods Avenue.

As detailed in Section 11 (Part 3), Woods Avenue and Wallis Street is not ideal for an increase in the number of child care places or change in the age breakdown. **Condition C1** therefore requires the child care places to remain unchanged, ie 60 places for 3-5 year olds.

- Insufficient parking to accommodate enlargement of the Temples and congregation
- Insufficient car parking for Synagogue and child care centre staff

Refer to Section 11 (Part 3).

- Scale and bulk of commercial structure as viewed from Woods Avenue

The scale and bulk of the new Conservative Synagogue building from Woods Avenue is acceptable given it is located on a battle-axe block, is setback 26m from the street, is at a lower level than the street and will not be readily visible from the street.

- Garbage disposal

Refer to **Conditions C1 and I10** for garbage disposal for the Synagogue and Child Care Centre respectively.

- Exceeds planning controls

As existing use rights apply, no numerical planning controls are applicable. Nonetheless, the proposal has been considered acceptable with respect to the planning controls in the Woollahra LEP 1995, Woollahra HCA DCP 2003 and Woollahra Off-Street Car Parking DCP.

- Loss of property value

The loss of property value to surrounding properties is not a relevant planning concern.

- Increased number of security guards
- Aggressive attitude of security guards

Complaints regarding the unruly or overbearing behaviour of security guards should be directed to the Synagogue or alternatively to NSW Police.

- Anti terrorist techniques have been implemented for the Synagogue but places increased risks on surrounding residents
- Other measures including a greater building setback instead of a blast wall
- Excessive height of blast wall

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Refer to Section 11 (Part 3).

- Will result in an increase in terrorism activity

The applicant has argued that the construction of the 'blast' security wall will act as a deterrent to terrorist activity. There is some merit in this argument. Irrespective, it is difficult to ascertain and substantiate claims that the construction of the security wall will lead to an increase in terrorist activity.

- Kilminster Lane should not be used for construction or general access
- Restricted working conditions, including hours, days of the week and no trucks in John Street
- Unclear construction timeframe, including excavation and overall construction phase
- Disruptions from construction noise (later start time requested) and dust (measures requested)
- Traffic impact arising from construction vehicles
- Impact upon sleep/health

Construction access will be via Woods Avenue and Ocean Street and not Kilminster Lane. Likewise, it is not proposed to use Kilminster Lane for future access as the main entrances will be retained on Ocean Street and Woods Avenue.

The Construction Management Plan submitted with the application was considered to be acceptable. It forms the requirement for **Conditions D2 and D3** and is also discussed in Section 11 (Part 3). It requires the establishment of a Works Zone and does not involve the parking of any vehicles or trucks on John Street. It also indicates that the removal and transportation of excavated material from the site will only occur between the hours of 9:30am and 2:30pm. This will help to appease neighbour concerns about maintaining the amenity of the neighbourhood during the construction phase. Council's standard condition has also been applied in **Condition E22**, which limits rock excavation, cutting, boring, drilling, breaking, sawing, jack hammering or bulk excavation of rock to a maximum of 45 minutes every hour.

Placing restrictions upon the times or days of the week in which construction can occur has advantages and disadvantages. Council's working hours are standard across the Municipality and reducing the length of the working day would be counter-productive as it will ultimately result in a longer construction period. **Condition E22** requires that no workers are to enter the site prior to 7:00am weekdays and 8:00am on Saturday (which is an hour later than Council's standard imposed condition). Any further restriction is considered to be unnecessary.

The impacts upon surrounding residents as a result of building work are unavoidable. Given the high number of residents surrounding the site and the lengthy anticipated period of construction, **Condition B2** requires the applicant to liaise with neighbours prior to the commencement of construction.

The size of the construction vehicles is limited to 12 tonne, which is appropriate for Woods Avenue. The Construction Management Plan lodged with the development application also

- Lack of notification (to 12/1 Ocean Street)

12/1 Ocean Street was notified during both notification periods.

- 
- 3D model should be provided

A 3D model was submitted with the development application and available to view at Council's chambers.

- Parking bays should be established within the site

The establishment of parking bays from Ocean Street would necessitate the provision of an additional driveway. It would allow the parking of no more than three vehicles at any one time. It is considered to be unnecessary.

- Protection of a heritage wall adjoining 11 Ocean Street
- Demolition of Neuweg Synagogue
- Inappropriate heritage impact

The wall adjoining 11 Ocean Street is not heritage listed. Its protection will be ensured as a dilapidation report is required in **Condition D1**.

Refer to Section 11 (Part 3) and Annexure 10 for the remaining heritage assessment of the proposal.

- Poor architectural appeal of the Administration/Community building

Council's Urban Design Officer considers that the new Administration/Community building is of an appropriate architectural design. It is, however, required to be modified via the deletion of the first floor level (**Condition C1**).

- High level of after hours use

The proposed redevelopment does not seek to alter the times at which the Synagogue is in use.

- Excessive number of parishioners

The number of parishioners at the Synagogue during normal working hours is low and does not pose any concern.

Normally, patronage at the Synagogue on the Sabbath is able to be accommodated within the subject site. The current scenario for the Temple Emanuel involves hiring a hall in Queen Street in addition to the Synagogue on the subject site to accommodate the increase in patronage surrounding the High Holy Days. The proposal seeks to re-establish the services on the one allotment of land.

It has been demonstrated that the site is able to accommodate the likely increase in patronage in future years. Attendances to the Synagogue on High Holy Days will be at approximately three times of the year quite like traditional Easter and Christmas services.

- Pedestrian entrance should be centered within the frontage not concentrated to the southern corner



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Some objection letters have noted that the security guards associated with patrolling the Synagogue are over bearing. In addition, people tend to congregate around pedestrian entrances, such as the entrance to the Synagogue.

The proposal involves the establishment of a guards gatehouse inside the site. This will alleviate some concerns in relation to the alleged behaviour of security guards.

Meanwhile, as the proposed pedestrian entrance is concentrated to the southern end of the street frontage alongside the entrance to 5 Ocean Street, there is the potential for some interaction between residents and congregants as well as the transmission of noise to habitable spaces of adjoining properties, particularly as the Synagogue often operates late at night.

However, the Synagogue has operated at this site since 1941 and is part of the local community. Some noise from congregants is inevitable and is a typical consequence of such institutions as a Synagogue. The interactions between residents and those attending the Synagogue are commonplace and any impacts arising from this largely unavoidable. It will not be suitably rectified by the relocation of the entrance.

- Unattractive high wall along the western wall of the new Conservative Synagogue

The proposal involves the establishment of a wall within 1.0m of the rear boundary with 5 Ocean Street consisting of the stain glass windows that are presently housed in the Neuweg Synagogue and a glass wall alongside the Kuddish Courtyard adjacent to the Temple Emanuel. Located 3.8m further back is a 2.4m high sound attenuating wall for the outdoor play area of the child care centre.

The stain glass windows will be largely screened by the boundary fence and do not pose any issue with regard to dominance or sense of enclosure to the residential flat buildings on Ocean Street.

The glass wall (and fire escape) alongside the Kuddish Courtyard will extend up to 4.0m above the fence line and will be within 1.0m of the boundary. This is inappropriate despite the existence of the existing child care centre on the boundary. Accordingly, it is to be setback a further 1.0m from the western boundary (**Condition C1**).

The sound attenuating wall will be setback 4.8m from the boundary and this is considered to be sufficient separation, particularly as the residential flat buildings on Ocean Street have similar rear setbacks.

- Development is more appropriate on a larger allotment of land

It has been argued that the current site is suitable for the proposed development.

- The local area will change from its village type atmosphere

The Synagogue was established on the current site in 1941. The proposed development merely seeks to increase the capacity of the site to accommodate the Synagogue on one site rather than in separate locations in Woollahra which is currently the case.

It is not considered that the proposed redevelopment will alter the character of the immediate locality of Ocean Street, Woollahra.

- 
- Where existing use rights apply, the planning principle states that an existing use cannot be enlarged

The planning principle applying to existing use rights was applied from *Stromness P/L v Woollahra Municipal Council*. It states that '*there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.*' However, it does not prohibit the construction of buildings of a greater scale.

## 16.2 Replacement application

The replacement application (as defined by Clause 90 of the *Environmental Planning and Assessment Regulation 2000*) was received on 9 February 2010. It was notified and advertised from 17 February 2010 to 3 March 2010. Despite it having no greater environmental impact upon neighbours, it was renotified for the following reasons:

- It was incorrectly notified and advertised in the original period as it omitted reference to it being a matter that would be determined by the JRPP
- Given the high number of objections to the proposed scheme, it was in the public interest that interested parties be made aware of further changes.

## 17. CONCLUSION - THE PUBLIC INTEREST

### 17.1 Response to Pre DA comments

The following concerns were raised in the minutes following the pre DA meeting. Comments have been provided to address the initial issues, as follows:

- Justification for the shortfall in off-street car parking
- Management of increased traffic

This issue is discussed in detail in Section 11 (Part 3).

- Excessive height of the blast wall within the Ocean Street streetscape

The height of the blast wall is considered to be acceptable, as detailed in Section 11 (Part 3).

- Noise arising from the operation of the childcare centre and appropriate acoustic measures implemented within the design of the child play area

Council's Health Officer deemed the proposal acceptable on acoustic grounds. The location of the classrooms along the southern boundary are beneficial in minimising noise transmission.

- Child care centre capacity and operational details

The number of places and breakdown of ages within the child care centre will be unchanged as a result of **Condition C1**.

- Landscaping requirements outlined in the comments provided by Council's Trees Officer, including the protection of the heritage listed Moreton Bay fig tree at the Woods Avenue frontage

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Following the submission of revised plans, Council is satisfied that the heritage listed Moreton Bay Fig will be protected. The landscape character of the remainder of the site is also vastly improved. Despite the removal of 22 trees, 58 new trees and large tracts of additional deep soil landscaping are proposed.

- Impact associated with the demolition of the Neuweg Sanctuary

Council has resolved to not oppose the demolition of the Neuweg Synagogue, as discussed in detail in Section 11 (Part 3).

- The loss of visibility of the Progressive Synagogue when viewed from Ocean Street (arising from the construction of the new Community/Administration building)

The applicant made only minor changes to the scheme to address the above issue. Accordingly, the first floor level of the new Community/Administration building is deleted in **Condition C1**.

## 17.2 Public interest

In determining whether or not the proposed Synagogue redevelopment and restoration is in the public interest, both the wider public interest (in this instance the provision of religious facilities for the Jewish community) and the sectionalised public interest (protecting residential amenity of surrounding residential properties) must be taken into consideration. In the event that the wider public interest outweighs the sectionalised public interest, the proposal can be determined to be in the public interest.

### Wider public interest

The Congregation of the Temple Emanuel seeks to redevelop the site at 7-9 Ocean Street, Woollahra in order to accommodate the members of the Synagogue community in the Eastern Suburbs and consolidate the operations of the Synagogue within one allotment of land. The site is capable of accommodating the increased density of the site despite the limited parking arrangements in the surrounding street network and the residential properties surrounding the site.

Council's Director Community Services has provided extensive research findings to demonstrate the existence of demand for child care places in the Woollahra local government area. Improved child care facilities is a positive outcome that meets addresses the demand in the Woollahra Municipality.

### Localised public interest

The scale of the building to adjoining properties and as viewed from Ocean Street and John Street is either acceptable or suitably rectified by **Condition C1**. In doing so, the scale of the buildings on the site is not inconsistent with the medium density development to the southern end of Ocean Street.

The height of the blast wall is significant and readily apparent and contrary to the desired characteristics of the Woollahra heritage conservation area. However, on merit, it is considered to be acceptable and consistent within the streetscape.

The level of amenity afforded to adjoining properties has been assessed as acceptable, including visual and acoustic privacy, access to sunlight and building separation. This includes assessments by Council's technical officers.

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The lack of parking and the subsequent impact upon the traffic arrangements in Ocean Street, Wallis Street and Woods Avenue is considered to be the primary issue. It is, however, considered to be satisfactory in Section 11 (Part 3).

### Conclusion

The Congregation of the Temple Emanuel are entitled to redevelop their site in order to meet the future needs of the Congregation, provided it is achieved in a manner that does not adversely affect the surrounding street network and surrounding residents.

The Temple Emanuel was constructed in 1941 and given that the Synagogue seeks to expand demonstrates that there is a need in the local community for such a facility. The impacts upon the surrounding neighbourhood, including the height of the blast wall, impact upon on-street parking, noise and heritage significance are considered to be acceptable.

On this basis, the wider public interest outweighs the localised public interest.

### **17.3 Final Conclusion**

Subject to various engineering, traffic, environmental health and landscaping conditions, **Conditions I8** (with respect to the operation of the child care centre) and several specific design modifications in **Condition C1**, the proposal is acceptable against the relevant considerations under Section 79C.

## **18. DISCLOSURE STATEMENTS**

Under Section 147 of the Environmental Planning and Assessment Act, 1979 there have been no disclosure statements regarding political donations or gifts made to any councillor or gifts made to any council employee submitted with this development application by either the applicant or any person who made a submission.

## 19. RECOMMENDATION: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979

THAT the Joint Regional Planning Panel (JRPP), as the consent authority, grant development consent to DA 355/2009/1 for the partial demolition of the Synagogue, child care and ancillary buildings and the construction of a new Synagogue, new administration building with underground car park for 14 cars, new ritual baths, new ancillary buildings, new child care centre for 60 children, new security walls and landscaping on land at 7-9 Ocean Street, Woollahra, subject to the following conditions:

### A. General Conditions

#### A.1 Approved Plans and supporting documents

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

Reference	Description	Author/Drawn	Date(s)
60051053	Acoustic Report	AECOM	7 January 2010
DA1.05F DA1.06F DA1.07F DA1.08F DA1.09F DA1.10F DA1.13D DA1.14E DA1.15E DA1.16E DA1.17E DA1.19B	Architectural Plans	Indyk Architects	21 January 2010
	Construction Management Plan (CMP)	Indyka and Associates	May 2009
	Addendum to the CMP	Panteq Constructions P/L	18 January 2010
	Child Care Plan of Management	Emanuel Woollahra Pre School	January 2010
45892	Geotechnical Report	Douglas Partners	March 2009
ES-LA1-B	Landscape Plan	CAB Consulting	20 January 2010
	Arborist Report	Earthscape Horticulture	January 2010
C1-02	Stormwater Management Plan	Acor Consultants	4 March 2009
C1-01			8 March 2009
	Transport Assessment	ARUP	15 April 2009

**Note:** All tree protection measures on site should be undertaken as recommended in the supplied arborists report.

**Note:** Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

**Note:** These plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A5

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## **A.2 Ancillary Aspect of the Development (s80A(2) of the Act)**

The owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's "Specification for Roadworks, Drainage and Miscellaneous Works" dated January 2003 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.3 Development Consent is not granted in relation to these matters**

This approval does not give consent to any new air conditioning units on the subject site. A separate Development Consent or Complying Development Certificate and Part 4A Certificates, as appropriate, will need to be obtained prior to the such development work commencing.

Standard Condition: A9

## **A.4 General Ventilation**

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 Table B1 "Minimum Exhaust Ventilation Flow Rates" of AS 1668.2-1991. 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 AS 1668 Parts 1 and 2.

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

### **B.1 Construction Certificate required prior to any demolition**

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

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

Standard Condition: B1

### **B.2 Notification of Commencement of Work**

All residents in the following properties are to be given four weeks notice of the Intent to commence works on the site (including demolition, excavation and construction):

- 1, 3, 5, 11, 13 and 15 Ocean Street

- 3 and 5 Kilminster Lane
- 14 Waimea Lane
- 1-5, 10 and 11-19 Woods Avenue
- 96-108 Wallis Street

If the start date changes by more than seven days, a further four weeks notice is required to be provided.

### B.3 Establishment of Tree Protection Zones

To limit the potential for damage to trees to be retained, Tree Protection Zones are to be established around all trees to be retained on site. The Tree Protection Zones are to comply with the following requirements;

#### a) Fenced Protection Zone areas

Council Ref No	Species	Location	Radius from Trunk (Metres)*
2	<i>Flindersia australis</i> Crow's Ash	Ocean Street frontage – Council verge south	2m
21	<i>Cedrus atlantica</i> Atlantic Cedar	Front of Temple Emanuel adjacent to ramp	4m
24	<i>Robinia pseudoacacia</i> Robinia	Rear – north eastern corner	2m
25			
26			
28			
32	<i>Ficus macrophylla</i> Moreton Bay Fig	Rear – Adjacent to Woods Avenue entry	6m
33	<i>Podocarpus elatus</i> Plum Pine	Rear – south eastern corner	4m
34	<i>Stenocarpus sinuatus</i> Queensland Firewheel Tree		3m
35	<i>Podocarpus elatus</i> Plum Pine		4m

- b) Tree Protection Zones are to be fenced with a 1.8 metre high chainmesh or weldmesh fence to minimise disturbance to existing ground conditions. The area within the fence must be mulched, to a depth of 75mm, irrigated and maintained for the duration of the construction works.
- c) Trunk protection, to a maximum height permitted by the first branches, is to be installed around the trunks of the trees listed in the table below;

Council Ref No	Species	Location
2	<i>Flindersia australis</i> Crow's Ash	Ocean Street frontage – Council verge south
21	<i>Cedrus atlantica</i> Atlantic Cedar	Front of Temple Emanuel adjacent to ramp
24	<i>Robinia pseudoacacia</i> Robinia	Rear – north eastern corner
25		
26		
28		
32	<i>Ficus macrophylla</i> Moreton Bay Fig	Rear – Adjacent to Woods Avenue entry
33	<i>Podocarpus elatus</i> Plum Pine	Rear – south eastern corner
34	<i>Stenocarpus sinuatus</i> Queensland Firewheel Tree	



35	<i>Podocarpus elatus</i> Plum Pine	
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A padding material eg. Hessian or thick carpet underlay, is to be wrapt around the trunk first. Harwood planks, 50x100mm and to the maximum possible length, are to be placed over the padding and around the trunk of the tree at 150mm centres. These planks are to be secured in place by 8 gauge wire at 300mm spacing.

- d) A sign must be erected on each side of the fence indicating the existence of a Tree Protection Zone and providing the contact details of the site Arborist.
- e) Existing soil levels must be maintained within Tree Protection Zones. Where excavation is undertaken adjacent such an area, the edge of the excavation must be stabilised, until such time as permanent measures are installed (eg. retaining wall etc) to prevent erosion within the Tree Protection Zone.
- f) Sediment control measures are to be installed around all Tree Protection Zones to protect the existing soil levels.
- g) The storage of materials, stockpiling, siting of works sheds, preparation of mixes, cleaning of tools or equipment is not permitted within Tree Protection Zones.

Site personnel must be made aware of all Tree Protection requirements, measures and any actions that constitute a breach of the Conditions of Development Consent with regard to tree protection on site during their site induction.

Standard Condition: B5

#### B.4 Arborists Periodic Site Inspection and Log

To ensure the condition and health of existing trees are maintained an arboricultural log book for the subject property is to be prepared by a qualified arborist and retained by the site foreman. Details of the arborists site inspection are to be recorded in the log during each visit. At each site visit the arborist must check and monitor the condition of existing trees and compliance with approved protection measures or recommend action to improve site conditions. As a minimum the following intervals of site inspections by a qualified arborist must be made.

Stage of arboricultural inspection	Minimum considerations at each stage	Additional visits required determined by arborist notes/comments
Prior to the demolition of any building or construction.	Correct installation of Tree Protection Zone barriers.	Make additional site visits as deemed necessary for ongoing monitoring/supervisory work.
During development work.	Tree Preservation and approved works are complied with. Monitor condition of trees.	Visit site at two week intervals to monitor condition of protected trees.*
Prior to the issue of a Final Occupation Certificate.	Supervise the dismantling of tree protection measures.	Make additional site visits as deemed necessary by the arborist for ongoing monitoring of tree vigour.

\* Specific attention should be directed to the existing surface of the driveway/accessway alongside the Moreton Bay Fig. If the roadway is seen to break up during the course of truck movements, then all vehicle movements are to cease and measures, as advised by the on-site Arborist, are to be undertaken to ensure that any future movements do not impact upon the root system of the tree.

## B.5 Recording of Neuweg Synagogue

A full archival record of the building and landscape elements to be demolished is to be submitted, to the satisfaction of Council's heritage officer, prior to the commencement of any work and prior to the issue of a Construction Certificate.

The archival record is to be completed by a heritage consultant listed on the Consultants Directory by the NSW Department of Planning Heritage Branch or by a suitably qualified consultant who must demonstrate a working knowledge of archival principles.

Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series, Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the NSW Department of Planning Heritage Branch.

There should be three sets of the photographic report and film materials or digital materials. The following table summarises the lodgment details for photographic records, depending on which material is selected. It is satisfactory to supply one material only and digital material is recommended.

Material	Minimum Requirement	Repository
Digital Materials	3 copies of photographic report – paper copy 3 CD-Rs or DVD 1 set of 10.5x14.8cm prints	<u>Woollahra Council</u> Report (paper) + CD-R or DVD + prints <u>Local History Centre</u> Report (paper) + CD-R or DVD <u>Owner/client</u> Report (paper) + CD-R or DVD
Black & White Film (plus any supplementary colour film)	3 copies of photographic report 1 set of negatives 1 sets of proof sheets and catalogue	<u>Woollahra Council</u> Report + negatives + 1st set of proof sheets <u>Local History Centre</u> Report + 2nd set of proof sheets <u>Owner/client</u> Report + 3rd set of proof sheets
Colour Transparencies or Slides	3 copies of photographic report 1 set of original transparencies and two sets of duplicates OR 3 sets of original images taken concurrently	<u>Woollahra Council</u> Report + original transparencies <u>Local History Centre</u> Report + duplicate/concurrent transparencies: <u>Owner/client</u> Report + duplicate/concurrent transparencies

**Note:** Refer to the NSW Department of Planning Heritage Branch website, [www.heritage.nsw.gov.au/docs/info\\_photographicrecording2006.pdf](http://www.heritage.nsw.gov.au/docs/info_photographicrecording2006.pdf)  
Standard Condition: B3

## B.6 Stain glass windows in Neuweg Synagogue

All stain glass windows in the Neuweg Synagogue are to be retained prior to demolition and reused elsewhere on the site.

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

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

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

- a) The deletion of the first floor of the Community/Administration building at the front of the site fronting Ocean Street in its entirety. A flat roof is to be established with a maximum RL of 76.25
- b) The use of the storage space at the rear of 6 Woods Avenue exclusively for the storage of garbage and recycling bins
- c) A reduction in the height of the 'blast' security wall along the southern boundary (from a point 18m from the street frontage of 5 Ocean Street to the proposed ritual bath) to a maximum height of 1.8m
- d) The deletion of the roof garden above the storage unit at the rear of 6 Woods Avenue and this is to be non-trafficable
- e) The children's play area for the child care centre being securely fenced on all boundaries
- f) The provision of a craft room and kitchen within the existing child care centre
- g) All 60 child care places being made available for 3-5 year olds only
- h) The glass wall (and fire escape leading to the first floor of Temple Emanuel) alongside the Kuddish Courtyard being setback a further 1.0m from the western boundary resulting in a total setback of 2.0m
- i) Classroom D being relocated 1.8m to the north whilst maintaining an internal class space of 65m<sup>2</sup>

**Note:** The effect of this condition is that it requires design changes and/or further information to be provided with the *Construction Certificate* drawings and specifications to address specific issues identified during assessment under section 79C of the *Act*.

**Note:** Clause 146 of the *Regulation* prohibits the issue of any *Construction Certificate* subject to this condition unless the *Certifying Authority* is satisfied that the condition has been complied with.

**Note:** Clause 145 of the *Regulation* prohibits the issue of any *Construction Certificate* that is inconsistent with this consent.

Standard Condition: C4

## C.2 Payment of Security, Levies and Fees (S80A(6) & S94 of the Act, Section 608 of the Local Government Act 1993)

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

Description	Amount	Indexed	Council Fee Code
<b>LONG SERVICE LEVY</b>			
under Building and Construction Industry Long Service Payments Act 1986			
<b>Long Service Levy</b> <a href="http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm">http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm</a>	Contact LSL Corporation or use online calculator	No	
<b>SECURITY</b>			
under section 80A(6) of the Environmental Planning and Assessment Act 1979			
<b>Property Damage Security Deposit</b> - making good any damage caused to any property of the <i>Council</i>	\$211,385	No	T115
<b>Tree Damage Security Deposit</b> – making good any damage caused to any public tree	\$3,278	No	T114

<b>Infrastructure Works Bond</b> – remedying any defects in any public work that arise within 6 months after the work is completed	\$32,000	No	T113
<b>DEVELOPMENT LEVY</b> under Woollahra Section 94A Development Contributions Plan 2009 This plan may be inspected at Woollahra Council or downloaded at <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> .			
<b>Development Levy</b> (Section 94A)	\$104,693 + Index Amount	Yes, quarterly	T96
<b>INSPECTION FEES</b> under Section 608 of the Local Government Act 1993			
Public Tree Management Inspection Fee	\$166	No	T45
Public Road/Footpath Infrastructure Inspection Fee	\$394	No	
Security Administration Fee	\$175	No	T16
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	\$352,091 plus any relevant indexed amounts and long service levy		

### Building and Construction Industry Long Service Payment

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

### How must the payments be made?

Payments must be made by:

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

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

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

### How will the section 94A levy be indexed?

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2009 sets out the formula and index to be used in adjusting the s.94A levy.

### Do you need HELP indexing the levy?

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

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### **Deferred periodic payment of section 94A levy under the Woollahra Section 94A Development Contributions Plan 2009**

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

- The reasons given;
- Whether any prejudice will be caused to the community deriving benefit from the public facilities;
- Whether any prejudice will be caused to the efficacy and operation of this 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 outstanding component of the section 94A levy will be adjusted in accordance with clause 3.13 of the plan. The applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

Standard Condition: C5

### **C.3 Road and Public Domain Works – Council approval required**

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

#### Road and Footpath

- Full width vehicular crossings on Woods Avenue having a width of 4.0m including new layback and gutter in accordance with Council's standard drawing RF2.
- Full width vehicular crossings on Ocean Street having a width of 4.0m including new layback and gutter in accordance with Council's standard drawing RF2.
- Removal of all driveway crossings and kerb laybacks which will be no longer required.
- Reinstatement of footpath, kerb and gutter to match existing.
- 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.

#### Drainage

- Construction of a standard gully pit in the kerb fronting the subject site on Ocean Street in accordance with Council's Standard "Grated Gully Pit with extended Kerb Inlet" drawing DR1.
- Construction of approximately 15.0m of 375mm RCP in-ground drainage line under the kerb and gutter at standard depth. The line must connect the new gully pit to the existing Council pit located on the western side of Ocean Street.
- The developer shall be responsible for carrying out any service investigations to allow a gravity connection.

### Bond

- A bond of \$32,000 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original and not have an expiry date.
- 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.
- 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 *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act 1993* approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

**Note:** See condition K24 in *Section K. Advising* of this Consent titled *Roads Act Application*.  
Standard Condition: C13

## **C.4 Utility Services Generally**

The *Construction Certificate* plans and specifications, required by clause 139 of the *Regulation*, must demonstrate that all utility services (telecommunications, electricity, gas, water and waste water) will be provided underground. All service ducts, pipes and conduits must be provided within the fabric of the building (excluding stormwater down pipes).

Where telecommunications and electricity are provided from existing poles in the road they must, in accordance with the relevant suppliers' requirements, be carried to the site underground directly to the main switch board within the fabric of the building.

**Note:** Where adequate provision has not been made for an electrical sub-station within the building, this may necessitate the lodgement of an application to amend this consent under section 96 of the Act to detail the location, landscape/streetscape impacts and compliance with AS2890 as applicable.

The location of service poles and substations required by the relevant suppliers must be shown upon the plans submitted with any *Construction Certificate* application together with a letter from each relevant supplier setting out their requirements. Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building unless expressly shown upon the approved DA plans. Details confirming compliance with this condition must be

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shown on the *Construction Certificate* plans and/or detailed within the *Construction Certificate* specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on the *Construction Certificate* plans.

**Note:** The intent of this condition is that the design quality of the development must not be compromised by cables, pipes, conduits, ducts, plant, equipment, electricity substations or the like placed such that they are visible from any adjoining public place. They must be contained within the building unless shown otherwise by the approved development consent plans.

The *Construction Certificate* plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Waters sewer main where they are not found by inspection to be UPVC or copper with continuously welded joints.

**Note:** This condition has been imposed to ensure that where private sewer pipes are old, may leak or may be subject to root invasion (whether from existing or proposed private or public landscaping) that existing cast iron, concrete, earthenware or terracotta pipes be replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Waters sewer main, such that clause 25(1) of WLEP 1995 be satisfied. Further, leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest  
Standard Condition: C20

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

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

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

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

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

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

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

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

Standard Condition: C25

## C.6 Structural Adequacy of Existing Supporting Structures

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



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

Standard Condition: C35

## C.7 Professional Engineering Details

The *Construction Certificate* plans and specifications, required by clause 139 of the Regulation, must include detailed *professional engineering* plans and/or specifications for all structural, electrical, hydraulic, hydro-geological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation.

Detailed professional engineering plans and/or specifications must be submitted to the *Certifying Authority* with the application for any *Construction Certificate*.

**Note:** This does not affect the right of the developer to seek staged Construction Certificates.

Standard Condition: C36

## C.8 Geotechnical and Hydrogeological Design, Certification & Monitoring

The *Construction Certificate* plans and specification required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation* must be accompanied by a *Geotechnical / Hydrogeological Monitoring Program* together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a *professional engineer*, who is suitably qualified and experienced in geotechnical and hydrogeological engineering. These details must be certified by the *professional engineer* to:

- a) Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure.
- b) Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).
- c) Provide foundation tanking prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time.
- d) Provide tanking of all below ground structures to prevent the entry of all ground water such that they are fully tanked and no on-going dewatering of the site is required.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
  - Will detect any settlement associated with temporary and permanent works and structures;
  - Will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like);
  - Will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity);
  - Will detect groundwater changes calibrated against natural groundwater variations;
  - Details the location and type of monitoring systems to be utilised;

- Details the preset acceptable limits for peak particle velocity and ground water fluctuations;
- Details recommended hold points to allow for the inspection and certification of geotechnical and hydro-geological measures by the professional engineer; and;
- Details a contingency plan.

Standard Condition: C40

## C.9 Ground Anchors

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

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

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

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

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

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

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

Standard Condition: C41

## C.10 Bicycle, Car and Commercial Parking Details

The *Construction Certificate* plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3:1993 *Parking Facilities - Bicycle Parking Facilities*, AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* and AS 2890.2:2002 – *Off-Street Parking: Commercial Vehicle Facilities* respectively.

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

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

Standard Condition: C45

### **C.11 Stormwater management plan (Site greater than 500m<sup>2</sup>)(Clause 25(2) WLEP 1995)**

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

The *Stormwater Management Plan* must detail:

- a) General design in accordance with Stormwater disposal concept plan prepared by ACOR Consultants, numbered C1.01, Revision D and C1.02, Revision A, unless amended by this and other conditions;
- b) The discharge of stormwater, by direct connection, to Council's in-ground stormwater pit located on the western side of Ocean street;
- c) Compliance the objectives and performance requirements of the BCA;
- d) Any rainwater tank (see note below) required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*, and
- e) General compliance with the Council's draft Development Control Plan Stormwater Drainage Management (Draft Version 1.1, Public Exhibition Copy dated 14 December 2006), and
- f) On-site stormwater detention ("OSD").

#### **OSD Requirements**

The minimum (OSD) Site Storage Requirements ("SSR") and the Peak Site Discharge ("PSD") from the site must be in accordance with the following minimum storage/discharge relationships based upon a 1000m<sup>2</sup> site area:

Average Recurrence Interval	PSD (L/s)	Minimum Site Storage Requirement (SSR) m <sup>3</sup>
2 year	23.5 L/s	4m <sup>3</sup>
100 year	34 L/s	29m <sup>3</sup>

**Note:** All values based on per 1000m<sup>2</sup> site area (interpolate to site area).

Where a rainwater tank is proposed in conjunction with OSD, the volume of the rainwater tank may contribute to the SSR as follows:

- a) Where the rainwater tank is used for external uses only, 40% of the rainwater tank volume to a maximum of 4m<sup>3</sup>, or
- b). Where the rainwater tank is used for external and internal uses, 75% of the rainwater tank volume to a maximum of 7.5m<sup>3</sup>.

**Example:** The Site Storage Requirements may be 25,000 litres and a 10,000 litre rainwater tank is to be used for garden irrigation. Therefore, the rainwater tank contributes 4,000 litres toward SSR. Therefore, the OSD tank needs to be 21,000 litres (25,000 litres less the 4,000 litres allowance). Note: 1m<sup>3</sup> = 1,000 litres.

The *Stormwater Management Plan* must include the following specific requirements:

#### **Layout plan**

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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:

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

**On-site Detention (OSD) details:**

- Any potential conflict between existing and proposed trees and vegetation,
- Internal dimensions and volume of the proposed detention storage,
- Diameter of the outlet to the proposed detention storage basin,
- 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,
- Details of access and maintenance facilities,
- Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,
- 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,
- Non-removable fixing details for orifice plates where used,

Copies of **certificates of title** showing the creation of private easements to drain water by gravity, if required.

**Subsoil Drainage**

- Subsoil drainage details
- Clean out points
- Discharge point.

**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: C51

**C.12 Tree Management Details**

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

- a) Trees to be numbered in accordance with these conditions,
- b) Shaded green where required to be protected and retained,
- c) Shaded yellow where required to be transplanted,
- d) Shaded blue where required to be pruned,
- e) Shaded red where authorised to be removed and,

- f) References to applicable tree management plan, arborists report, transplant method statement or bush regeneration management plan.

Standard Condition: C30

### C.13 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. Applicant's 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.14 Sound Attenuation of Mechanical Plant and Equipment

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 all mechanical plant and equipment to ensure 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* when measured at any boundary of the site.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed.

**Note:** Further information including lists of Acoustic Engineers can be obtained from:

1. **Australian Acoustical Society**—professional society of noise-related professionals ([www.acoustics.asn.au/index.php](http://www.acoustics.asn.au/index.php)).

2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).

Standard Condition: C61

### C.15 Acoustic Certification of Mechanical Plant & Equipment

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a *professional engineer* (acoustic engineer) certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and

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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.

Where sound attenuation is required this must be detailed.

**Note:** Further information including lists of Acoustic Engineers can be obtained from:

**1. Australian Acoustical Society**—professional society of noise-related professionals ([www.acoustics.asn.au /index.php](http://www.acoustics.asn.au/index.php)).

**2. Association of Australian Acoustical Consultants**—professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).

Standard Condition: C62

## C.16 Compliance with Acoustic Assessment Recommendations

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must detail all works required to be undertaken within the AECOM Acoustic Assessment Document No 60051053 dated 07 January 2010.

**Note:** This condition has been imposed to ensure that sound attenuation measures required or recommended by the Acoustic Report that must be implemented are detailed.

**Note:** Further information including lists of Acoustic Engineers can be obtained from:

**1. Australian Acoustical Society**—professional society of noise-related professionals ([www.acoustics.asn.au /index.php](http://www.acoustics.asn.au/index.php)).

**2. Association of Australian Acoustical Consultants**—professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).

Standard Condition: C60

## C.17 Noise Management Plan – Child Care Centre

A noise management plan shall be implemented in conjunction with the physical noise controls. The Noise Management Plan shall be incorporated within the Centre's overall management plan and shall include but not be restricted to:

- a) A separate daily program for both the warmer and cooler months should be established in order to regulate the total time spent outdoors and indoors;
- b) The program should be made publicly available to parents and neighbours;
- c) A contact phone number for the Centre's director should be made available to neighbours to facilitate communication and to resolve any neighbourhood issues that may arise due to operation of the centre;
- d) The number of children playing outside at any one time may need to be limited to meet the noise criteria;
- e) The total time spent outside in the play area may need to be limited to less than 2 hours per day to meet the noise criteria;
- f) Crying children should be taken inside the centre and comforted
- g) The behaviour of children should be monitored and modified as required by adequately trained child care workers;
- h) Parents and guardians should be informed of the importance of noise minimisation when entering the site, dropping off or picking up children; and amplified music may need to be avoided to meet the noise criteria.

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## C.18 Waste Storage

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail provisions for waste management in accordance with the approved waste management plan. Waste Storage Areas must meet the following requirements:

- a) Bins must be stored with lids down to prevent vermin from entering the waste containers.
- b) The area must be constructed with a smooth impervious floor graded to a floor waste. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water.
- c) Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter.
- d) The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use.
- e) Odour problems must be minimised by good exhaust ventilation.
- f) Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room.
- g) Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay.

Standard Condition: C19

## C.19 Food Premises – Construction Certificate Plans & Specifications

The person with the benefit of this consent must submit to Council details for the construction and fit out of food premises. Such details must demonstrate compliance with the *Food Act 2003*, *Food Regulation 2004*; the *Food Standards Code* as published by Food Standards Australia and New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises*.

No *Construction Certificate* relating to the construction or fitout of food premises must be issued until Council's Environmental Health Officers' have advised in writing that the plans and specification are considered satisfactory.

The details for the construction and fit out of food premises, as considered satisfactory by Council's Environmental Health Officers' must form part of any *Construction Certificate*.

**Note:** The assessment of food premises fitout plans and specifications is subject to an adopted fee. The construction and fitout of food premises is not listed under clause 161 of the *Environmental Planning & Assessment Regulation 2000* as a matter that a *Certifying Authority* may be satisfied as to. Hence, the detailed plans & specifications must be referred to Council and be to Council's satisfaction prior to the issue of any *Construction Certificate* for such works.

Standard Condition: C65

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## C.20 Building upgrade (Clause 94 of the Regulation)

*Council* considers pursuant to clause 94 of the *Regulation* that it is appropriate to require the existing building to be brought into total or partial conformity with the *BCA*. The *Construction Certificate* plans and specification required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation* must detail building upgrade works required by this condition.

The *Certifying Authority* must be satisfied that such work, to be implemented as part of the development, will upgrade the building to bring it into compliance with the following provisions of the *BCA* as in force at the date of the *Construction Certificate* application:

- a) Volume 1, F4.5(b) - Ventilation of Rooms
- b) Housing Provisions, Clause 3.7.2.2 - Requirements for smoke alarms,
- c) Housing Provisions, Clause 3.9.1 - Stair construction,
- d) Housing Provisions, Clause 3.9.2 - Balustrades,

**Note:** The *Certifying Authority* issuing the *Construction Certificate* has no power to remove the requirement to upgrade the existing building as required by this condition. Where this condition specifies compliance with performance requirements of the *BCA* the *Certifying Authority*, subject to their level of accreditation, may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (deemed to satisfied) provisions of the *BCA* these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed under section 82A or amended under section 96 of the *Act*.

**Note:** This condition does not set aside the *Certifying Authorities* responsibility to ensure compliance with clause 143 of the *Regulation* in relation to Fire Protection and Structural Adequacy.

**Note:** AS 4655 *Guidelines for fire safety audits for buildings* (or any succeeding AS) should form the basis of any fire upgrade report.

Standard Condition: C10

## C.21 Operational Noise Criteria

All recommendations made within the AECOM Acoustic Assessment Document No 60051053, dated 07 January 2010, be implemented to attain the design goals as stated within the report.

## C.22 Carpark Ventilation

The basement car park is to be designed to the following specifications:

- a) The basement car park in which vehicles powered by internal combustion engines are parked is required to comply with Section 4 'Ventilation Of Enclosures Used By Vehicles With Internal Combustion Engines' of Australian Standard 1668.2-1991. In general air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.
- b) The basement car park 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 car park and provide details to the *Certifying Authority* accordingly. Except as varied in accordance with Clause 4.4.1 (a), (b) or (c), the 53 vehicle basement car park shall be mechanically ventilated by a combination of general exhaust with flow rates in accordance with Clause 4.4.2, and supply with flow rates specified in Clause 4.8 of Australian Standard 1668.2-1991.



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- c) The Air Discharge for the carpark ventilation system is to comply with Section 3 (Exhaust Air Dilution Procedure) of Australian Standard 1668.2-1991 and in particular Clause 3.7 (1-4) pertaining to air discharges.

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

**D.1 Dilapidation Reports for existing buildings**

Dilapidation surveys must be conducted and dilapidation reports prepared by a *professional engineer* (structural) of all buildings on land whose title boundary abuts the site and of such further buildings located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration. These properties must include (but is not limited to):

- 1, 3, 5 and 11 Ocean Street
- 98 and 100 Wallis Street
- 2, 3, 4, 5 and 6 Woods Avenue
- 3 Kilminster Lane

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

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by s81A(2) of the *Act* not less than two (2) days prior to the commencement of any work.

**Note:** The reasons for this condition are to provide a record of the condition of buildings prior to development being carried out and 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.2 Construction Management Plan**

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

A construction management plan must be submitted and approved by Council's Development Engineer. The plan must:-

- a) Describe the anticipated impact of the demolition, excavation and construction works on:
- Local traffic routes
  - Pedestrian circulation adjacent to the building site
  - On-street parking in the local area

- 
- b) Describe the means proposed to:
- Manage construction works to minimise such impacts,
  - Provide for the standing of vehicles during construction,
  - Provide for the movement of trucks to and from the site, and deliveries to the site
- c) Show the location of:
- Any site sheds and any anticipated use of cranes and concrete pumps,
  - Any areas of Council property on which it is proposed to install a Works Zone (Construction Zone)
  - Structures to be erected such as hoardings, scaffolding or shoring
  - Any excavation
- d) Describe the excavation impact on the area including
- Number and types of trucks to be used
  - Time frame
  - Streets to be used
  - Routes to be taken
  - Directions of travel
  - Truck storage areas
  - It is recommended that vehicle routes be shared
  - Excavation is to only be carried out outside peak and school hours between 9.30am to 2.30pm week days
- e) Ensure that the height of the trucks used to transport excavated material from the site do not affect the branches or root system of the heritage listed Moreton bay Fig adjacent to the Woods Avenue entrance.

The Plan must make provision for all materials, plant, etc. to be stored within the development site at all times during construction. Structures or works on Council property such as hoardings, scaffolding, shoring or excavation need separate approval from Council. Standing of cranes and concrete pumps on Council property will need approval on each occasion.

**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.3 Works (Construction) Zone – Approval & Implementation

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

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

**Note:** The *principal contractor* or *owner* must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local

Traffic Committee) constituted under the Clause 22 of the *Transport Administration (General) Regulation* 2000 to exercise those functions delegated by the Roads and Traffic Authority under Section 50 of the *Transport Administration Act* 1988.

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

#### D.4 Erosion and Sediment Controls – Installation

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

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

Where there is any conflict The Blue Book takes precedence.

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

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

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

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

**Warning:** Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act* 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.  
Standard Condition: D14

#### D.5 Permissible work within Tree Protection Zones

In accordance with British Standard BS5837, one incursion no greater than 20% of a trees calculated Tree Protection Zone is considered allowable provided the tree is a healthy and vigorous specimen. Upon completion of approved works within the Tree Protection Zone, the specified Tree Protection Zone fencing must end either side of the allowable incursion. The table below provides a radius distance from the centre of the trunk of existing trees defining the limit of the Tree Protection Zone.

- a) Permissible Work within Tree Protection Zones

Council Ref No	Species	Location	Tree Protection Zone (radius)	Approved works within incursion
21	<i>Cedrus atlantica</i> Atlantic Cedar	Front of Temple Emanuel adjacent to ramp	8.3m	Excavation for basement car park on west side of tree

24	<i>Robinia pseudoacacia</i>	Rear – north eastern corner	5.8m	Excavation for retaining wall to west of tree
25	Robinia		6.0m	
26			7.2m	
28			5.3m	
29	<i>Toona sinensis</i> Chinese Cedar	Standing on 10 Woods Ave – Rear south west corner	3.3m	Excavation for retaining wall and lowered driveway to south of tree
32	<i>Ficus macrophylla</i> Moreton Bay Fig	Rear – Adjacent to Woods Ave entry	15.0m	Excavations for driveway to north. Screw piles to east, south and west of tree
33	<i>Podocarpus elatus</i> Plum Pine	Rear – south eastern corner	6.6m	Excavation for basement to north of tree
34	<i>Stenocarpus sinuatus</i> Queensland Firewheel Tree		4.3m	
35	<i>Podocarpus elatus</i> Plum Pine		7.2m	

- b) Where excavation is undertaken within a specified Tree Protection Zone, the edge of the excavation must be stabilised, until such time as permanent measures are installed (eg. retaining wall etc) to prevent erosion within the Tree Protection Zone.
- c) To prevent damage to roots and compaction within the Tree Protection Zone of specified trees, excavation must be hand dug. Small hand tools only are to be utilised, mattocks and similar digging tools are not be used within these areas. No root with a diameter equal to or in excess of 50mm is to be cut unless approved, in writing, by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 4 or recognised equivalent).

All root pruning must be undertaken in accordance with the *Australian Standard 4373 "Pruning of Amenity Trees* and carried out by a qualified Arborist (minimum qualification of *Australian Qualification Framework Level 4* or recognised equivalent).

Beyond this radius, mechanical excavation is permitted, when root pruning by hand along the perimeter line of such works is completed.

## D.6 Erosion and Sediment Controls – Installation

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

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

Where there is any conflict The Blue Book takes precedence.

**Note:** The International Erosion Control Association – Australasia (<http://www.austieca.com.au/>) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and

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Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

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

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

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

**Warning:** Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.  
Standard Condition: D14

## **D.7 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989**

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

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

This condition does not apply:

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

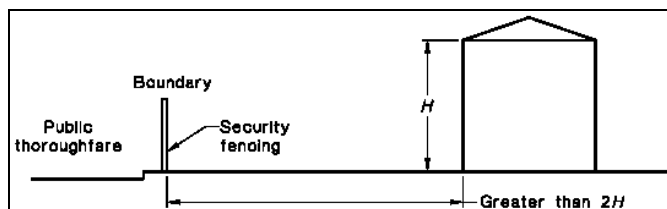
In this condition, a reference to the *BCA* is a reference to that code as in force on the date the application for the relevant construction certificate is made.

**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.

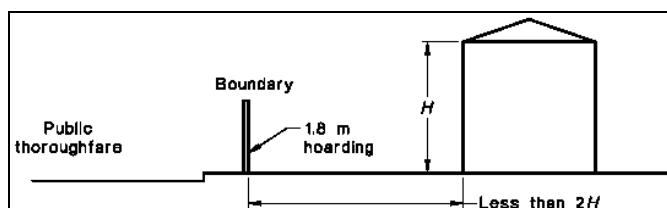
**Note:** All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.  
Standard Condition: D1

## **D.8 Security Fencing, Hoarding and Overhead Protection**

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



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

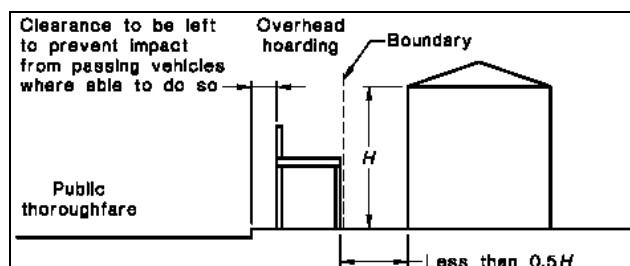


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either:

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

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

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



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

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The *principal contractor* or *owner builder* must ensure that Overhead Protective Structures are installed and maintained in accordance with WorkCover NSW Code of Practice - Overhead Protective Structures, gazetted 16 December 1994, as commenced 20 March 1995. This can be downloaded from:  
<http://www.workcover.nsw.gov.au/Publications/LawAndPolicy/CodesofPractice/oheadprotstructs.htm>.

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

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

Standard Condition: D11

## D.9 Site Signs

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

Clause 98A of the *Regulation* provides:

### **Erection of signs**

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

Clause 227A of the *Regulation* provides:

### **Signs on development sites**

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

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

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

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

Standard Condition: D12

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## D.10 Toilet Facilities

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

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

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

In this condition:

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

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

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

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

**Note:** This condition does not set aside the requirement to comply with Workcover NSW requirements.  
Standard Condition: D13

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

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

- a) A construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
  - Appointed a principal certifying authority for the building work, and
  - Notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- c) the principal certifying authority has, no later than 2 days before the building work commences:
  - Notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and



- 
- Notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
- Appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
  - Notified the principal certifying authority of any such appointment, and
  - Unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - Given at least 2 days' notice to the council of the person's intention to commence the erection of the building.

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

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

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

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

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

Standard Condition: D15

## D.12 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 Act* 2002 sets out:

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

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

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

## **D.13 Checking Construction Certificate plans & protecting assets owned by the Sydney Water Corporation**

*Construction Certificate* plans must be stamped by the Sydney Water Corporation prior to the commencement of any development work. This is required to ensure that buildings close to or over Sydney Water Corporation assets are identified and requirements for protecting them are implemented.

**Note:** Further information can be obtained from the Sydney Water Corporation on or telephone 13 20 92 or by visiting their web site:

[http://www.sydneywater.com.au/html/yourhome/quick\\_check/building\\_renovating.cfm](http://www.sydneywater.com.au/html/yourhome/quick_check/building_renovating.cfm)

Standard Condition: D19

## **E. Conditions which must be satisfied during any development work**

### **E.1 Compliance with Construction Management Plan**

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

**Note:** Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.

Standard Condition: E3

### **E.2 Maintenance of Environmental Controls**

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

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

**Note:** See [http://www.epa.nsw.gov.au/small\\_business/builders.htm](http://www.epa.nsw.gov.au/small_business/builders.htm) for additional information.

Standard Condition: E11

### **E.3 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.4 Support of adjoining land and buildings

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

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

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

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

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

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

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

Standard Condition: E13

#### E.5 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

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alarm must activate such that the *principal contractor* and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the *professional engineer* and any further work recommencing the event must be recorded and the cause of the event identified and documented by the *professional engineer*.

Where the event requires, in the opinion of the *professional engineer*, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the *professional engineer* as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the *professional engineer* to the *principal contractor* and any sub-contractor clearly setting out required work practice.

The *principal contractor* and any sub-contractor must comply with all work directions, verbal or written, given by the *professional engineer*.

A copy of any written direction required by this condition must be provided to the *Principal Certifying Authority* within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the *professional engineer*, *principal contractor* and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the *professional engineer* to prevent any further damage and restore support to the *supported land*.

**Note:** *Professional engineer* has the same mean as in Clause A1.1 of the BCA.

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

**Note:** *Supported land* has the same meaning as in section 88K of the Conveyancing Act 1919.  
Standard Condition: E14

## **E.6 Erosion and Sediment Controls – Maintenance**

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

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

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



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

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

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

Standard Condition: E15

## E.7 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.8 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works Road works and work within the Road and Footway

All work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the *development* to which this consent relates must comply with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* dated January 2003.

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

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

**Note:** A copy of Council's "Specification for Roadworks, Drainage and Miscellaneous Works" can be downloaded free of charge from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)  
Standard Condition: E24

## E.9 Tree Preservation

All persons must comply with Council's *Tree Preservation Order* ("the TPO"), other than where varied by this consent. The order applies to any tree, with a height greater than 5 metres or a diameter spread of branches greater than 3 metres, is subject to Council's Tree Preservation Order unless, exempted by specific provisions. Works to be carried out within a 5 metre radius of any tree, subject to the Tree Preservation Order, require the prior written consent of Council.

### General Protection Requirements

- a) There must be no unauthorised excavation or *work* within the required Tree Protection Zones. The Tree Protection Zones must be maintained during all *development work*.
- b) Where excavation encounters tree roots with a diameter exceeding 50mm 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.

**Note:** Trees must be pruned in accordance with *Australian Standard AS 4373 "Pruning of Amenity Trees"* and *WorkCover NSW Code of Practice Amenity Tree Industry*.  
Standard Condition: E8

## E.10 Tree Preservation & 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)
21	<i>Cedrus atlantica</i> Atlantic Cedar	Front of Temple Emanuel adjacent to ramp	14 x 15
24	<i>Robinia pseudoacacia</i> Robinia	Rear – north eastern corner	12 x 9
25			10 x 10
26			12 x 13
28			10 x 9
32	<i>Ficus macrophylla</i> Moreton Bay Fig	Rear – Adjacent to Woods Ave entry	20 x 28

33	<i>Podocarpus elatus</i> Plum Pine	Rear – south eastern corner	17 x 9
34	<i>Stenocarpus sinuatus</i> Queensland Firewheel Tree		9 x 5
35	<i>Podocarpus elatus</i> Plum Pine		16 x 10

- Trees on Council Land

Council Ref No	Species	Location	Dimension (metres)	Tree Value
2	<i>Flindersia australis</i> Crow's Ash	Ocean St frontage – Council verge south	12 x 5	N/A

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

b) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
1	<i>Lophostemon confertus</i> Brush Box	Ocean St frontage – Council verge north	9 x 10
4	<i>Camellia japonica</i> Camellia	Front garden bed	4 x 5
8	<i>Cupressus sempervirens</i> Italian Cypress	Front – South boundary	15 x 3
10			6 x 2
12			20 x 4
14			12 x 4
15			14 x 4
16			11 x 4
17			
18			10 x 3
19			13 x 8
20			4 x 1.5
22	<i>Jacaranda mimosifolia</i> Jacaranda	Rear – North adjacent to Kilminster Lane	14 x 14
30	<i>Metrosideros excelsa</i> NZ Christmas tree	Rear – Adjacent to Woods Avenue entry	10 x 7
31	<i>Stenocarpus sinuatus</i> Firewheel Tree	Rear – East boundary	9 x 6
31A			5 x 5
31B	<i>Agonis flexuosa</i> Willow Myrtle	Rear – Centre of yard	5 x 7
36	<i>Cyathea cooperi</i> Scaly tree fern	Rear – South boundary	3.5 x 3
37	<i>Cinnamomum camphora</i> Camphor Laurel	Side – South west corner	12 x 10
38			13 x 9
39			17 x 20
40	<i>Washingtonia filifera</i> American Cotton Palm	Rear - Centre	6 x 4

**Note:** The tree/s that may be removed should appear coloured red on the construction certificate plans.

## E.11 Replacement 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 plant is to be maintained in a healthy and vigorous condition until it attains a height of 5 metres or a spread of 3 metres, whereby it will be protected by Council's Tree Preservation Order. If the replacement plant is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting Location	Container Size or Size of Tree (at time of planting)	Minimum Dimensions at Maturity
Total of 58 new trees greater than 5 metres in height at maturity	To be planted as indicated on supplied landscape plan ES-LA1-B prepared by CAB Consulting dated 20 January 2010 (amended)	Various between 25 litre and 200 litre pot	5 metres
All replacement trees are to be NATSPEC grown.			

## E.12 Hand excavation within tree root zones

To prevent damage to roots and compaction within the root zone, excavation undertaken within the specified radius from the trunks of the following trees must be hand dug. Small hand tools only are to be utilised, mattocks and similar digging tools are not to be used within these areas. No root with a diameter equal to or in excess of 50mm is to be cut unless approved, in writing, by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 4 or recognised equivalent).

All root pruning must be undertaken in accordance with the *Australian Standard 4373 "Pruning of Amenity Trees"* and carried out by a qualified Arborist (minimum qualification of *Australian Qualification Framework Level 4* or recognised equivalent).

Any exposed surface roots must be covered to prevent drying out and watered. Materials used to minimise surface roots drying out include leaf litter mulch or a geotextile fabric.

Beyond this radius, mechanical excavation is permitted, when root pruning by hand along the perimeter line of such works is completed.

Council Ref No	Species	Location	Radius from Trunk (metres)
21	<i>Cedrus atlantica</i> Atlantic Cedar	Front of Temple Emanuel adjacent to ramp	8.3m
24	<i>Robinia pseudoacacia</i> Robinia	Rear – north eastern corner	5.8m
25			6.0m
26			7.2m
28			5.3m
29	<i>Toona sinensis</i> Chinese Cedar	Standing on 10 Woods Ave – Rear South west corner	3.3m
32	<i>Ficus macrophylla</i> Moreton Bay Fig	Rear – Adjacent to Woods Avenue entry	15.0m
33	<i>Podocarpus elatus</i> Plum Pine	Rear – south eastern corner	6.6m
34	<i>Stenocarpus sinuatus</i>		4.3m



	Queensland Firewheel Tree		
35	<i>Podocarpus elatus</i> Plum Pine		7.2m

### E.13 Footings in the vicinity of trees

Footings for any structure constructed within the specified radius from the trunks of the following trees, is to be constructed using an isolated pier and beam construction method. Excavations for installation of piers is to be located so that no tree root with a diameter equal to or in excess of 50mm is to be severed. The smallest possible area is to be excavated which allows construction of the pier. The beam is to be placed a minimum of 100mm above ground level and is to be designed to bridge all tree roots with a diameter equal to or in excess of 50mm.

Council Ref No	Species	Location	Radius from Trunk (metres)
21	<i>Cedrus atlantica</i> Atlantic Cedar	Front of Temple Emanuel adjacent to ramp	8.3m
24	<i>Robinia pseudoacacia</i>	Rear – north eastern corner	5.8m
25	Robinia		6.0m
26			7.2m
28			5.3m
29	<i>Toona sinensis</i> Chinese Cedar	Standing on 10 Woods Ave – Rear South west corner	3.3m
32	<i>Ficus macrophylla</i> Moreton Bay Fig	Rear – Adjacent to Woods Avenue entry	15.0m
33	<i>Podocarpus elatus</i> Plum Pine	Rear – south eastern corner	6.6m
34	<i>Stenocarpus sinuatus</i> Queensland Firewheel Tree		4.3m
35	<i>Podocarpus elatus</i> Plum Pine		7.2m

### E.14 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:

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

**Note:** “*Dust Control - Do it right on site*” can be down loaded free of charge from Council's web site [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or obtained from Council's office.

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

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

Standard Condition: E23

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## E.15 Placement and use of Skip Bins

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

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

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

## E.16 Prohibition of burning

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

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

## E.17 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

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

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

This condition does not apply:

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

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

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

## E.18 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—1991: The Demolition of Structures, published by Standards Australia, and as in force at 1 July 1993.

Standard Condition: E2

## E.19 Requirement to notify about new evidence

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

Standard Condition: E4

## E.20 Critical Stage Inspections

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

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

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

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

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

Standard Condition: E5

## E.21 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 8am or after 1pm any Saturday, and
- d) No piling, piercing, cutting, boring, drilling, rock breaking, rock sawing, jack hammering or bulk excavation of land or loading of material to or from trucks must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday.
- e) 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.

In this instance, work includes the delivery of goods or material, including such items as concrete trucks and other similar vehicles and any workers entering the subject site.

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

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

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

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

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

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

**Note:** see [http://www.epa.nsw.gov.au/resources/ci\\_build\\_sheet7.pdf](http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf)  
Standard Condition: E6

## E.22 Maintenance of Vehicular and Pedestrian Safety and Access

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

Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.

- a) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- b) Not use the road or footway for any work.
- c) Keep the road and footway in good repair free of any trip hazard or obstruction.
- d) Not stand any plant and equipment upon the road or footway.

This condition does not apply to the extent that a permit or approval exists under the section 73 of the *Road Transport (Safety and Traffic Management) Act 1999*, section 138 of the *Roads Act 1993* or section 94 of the *Local Government Act 1993* except that at all time compliance is required with:

- a) Australian Standard AS 1742 (Set) Manual of uniform traffic control devices and all relevant parts of this set of standards.
- b) Australian Road Rules to the extent they are adopted under the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999*.

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

**Note:** Section 138 of the *Roads Act 1993* provides that a person must not:

- erect a structure or carry out a work in, on or over a public road, or
- dig up or disturb the surface of a public road, or
- remove or interfere with a structure, work or tree on a public road, or
- pump water into a public road from any land adjoining the road, or
- connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

**Note:** Section 68 of the *Local Government Act 1993* provides that a person may carry out certain activities only with the prior approval of the council including:

- Part C Management of Waste:

- a. For fee or reward, transport waste over or under a public place
  - b. Place waste in a public place
  - c. Place a waste storage container in a public place.”
- Part E Public roads:
  - a. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
  - b. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.”
  - c. Any work in, on or over the Road or Footway requires *Council* Approval and in the case of classified roads the NSW Roads and Traffic Authority. Road includes that portion of the road uses as a footway.

Standard Condition: E7

### **E.23 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum**

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

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

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

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

Standard Condition: E20

### **E.24 Hazardous Materials and Soils**

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Any fill imported onto the site shall be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported on to the site shall be compatible with the existing soil characteristic for site drainage purposes.

Any proposed disposal of soil from the site, such soil must be tested and classified in accordance with the provisions of both the Protection of the Environment Operations Act 1997 and the NSW EPA Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).

**F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)**

**F.1 Commissioning and Certification of Systems and Works**

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

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

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

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

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

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

Standard Condition: F7

**F.2 Transport Management Plan**

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To minimise the impact upon on street parking during peak operating periods of the Synagogue (High Holy Days), a detailed *Transport Management Plan* must be prepared and submitted to Council's Engineering Services for approval.

The objective of the *Transport Management Plan* is to specify the management and operation of a shuttle bus service which is to operate during peak periods. The plan must contain (but not be limited to) the following details:

- Shuttle bus route and service stops.
- Bus capacity.
- Operating times and dates/ periods.

The plan is a control document which is to be implemented in the ongoing use of the synagogue and so the use of ambiguous or subjective wording will not be accepted.

### F.3 Food Premises - Inspection and Registration

Prior to the issue of any *Occupation Certificate* or occupation or use of any food premises:

- a) The *Principal Contractor* or *owner* must arrange an inspection of the fit out of the Food Premises by Council's Environmental Health Officer;
- b) A satisfactory final inspection must have been undertaken by Council's Environmental Health Officer; and
- c) The *owner* or *occupier* must have registered the Food Premises (Notification of conduct under section 100 of the *Food Act* 2003).

**Note:** Notification can be done on-line [at www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au)

**Note:** Inspections are subject to payment of the adopted inspection fee.

**Note:** Section 100 of the *Food Act* 2003 requires:

"100 Notification of conduct of food businesses

(1) The proprietor of a food business must not conduct the food business unless the proprietor has given written notice, in the approved form, of the information specified in the Food Safety Standards that is to be notified to the appropriate enforcement agency before the business is conducted. Maximum penalty: 500 penalty units in the case of an individual and 2,500 penalty units in the case of a corporation."

**Note:** *Accredited Certifiers* are unable to issue *Compliance Certificates* in relation to compliance with the *Food Act* 2003, *Food Regulation* 2004; the Food Standards Code and the Australian Standard AS 4674-2004: *Construction and fit out of food premises*; since these are not matters which an *Accredited Certifier* can be satisfied in relation to under Clause 161 of the *Regulation*. This condition can only be satisfied following an inspection and sign off from Council's Environmental Health Officers.

Standard Condition: F15

### F.4 Occupation Certificate (section 109M of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 109H (4) of the *Act*) unless an occupation certificate has been issued in relation to the building or part.

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

Standard Condition: F1

### F.5 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 109H of the Act.

Standard Condition: F4

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

Nil.

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

### **H.1 Road Works (including footpaths)**

The following works must be completed to the satisfaction of Council, in compliance with Council's "Specification for Roadworks, Drainage and Miscellaneous Works" dated January 2003 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*.



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

## **H.2 Positive Covenant & Works-As-Executed certification of stormwater systems**

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

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

**Note:** The required wording of the Instrument can be downloaded from Council's web site [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) . The PCA must supply a copy of the WAE Plans to Council together with the *Final Occupation Certificate*. The *Final Occupation Certificate* must not be issued until this condition has been satisfied.  
Standard Condition: H20

## **H.3 Landscaping**

All landscape work including all planting must be completed by the *principal contractor* or *owner* in compliance with the approved landscape plan, arborist report, transplant method statement and tree management plan. 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 as completed comply with this consent.

**Note:** This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the *Final Occupation Certificate*.

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

### **I.1 Food Premises - Maintenance of Food Premises**

The food premises must be maintained in accordance with the *Food Act 2003*, *Food Regulation 2004*; the Food Standards Code as published by Food Standards Australia and New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises*.

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This condition has been imposed to protect public health.

**Note:** The provisions of the Food Act 2003 may change over time and irrespective of this condition compliance with this Act, regulations, food standards and other standards adopted under the Food Act (as amended) are mandatory. The *Food Act* and applicable regulations can be accessed free of charge at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).  
Standard Condition: I30

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

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

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

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: I12

## **I.3 Compliance with the Transport Management Plan**

The management/ administrative authority of the synagogue must implement the approved *Transport Management Plan* submitted in accordance with the condition labelled "Transport Management Plan".

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## I.4 Noise Control

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

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

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

### Useful links:

**Community Justice Centres**—free mediation service provided by the NSW Government ([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).

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

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

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

**Association of Australian Acoustical Consultants**—professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).

**Department of Gaming and Racing** - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).

Standard Condition: I50

## I.5 Children's Services Regulation 2004

Full compliance with the requirements of the Children's Services Regulation 2004 is required, including the following:

Part 3 Licence conditions – facilities and equipment requirements

- Division 1 Facilities
- Division 2 Equipment
- Division 3 General

Part 4 Licence conditions – staffing requirements

- Division 1 Staff (Part 54 – Cooking staff)

Part 6 Licence conditions – operational requirements

- Division 1 General (Part 68- Food and nutrition)
- Division 1 General (Part 70- Storage of dangerous substances and equipment)

## I.6 Child care facilities

The operation of the child care centre must meet the following requirements:

- a) Sanitary facilities must comply with the requirements for class 9b buildings (Early childhood centres) of clause F2.3 of the Building Code of Australia. Table F2.3—9b provides that for every 15 children or part thereof there must be a junior toilet or adult toilet with a firm step and a junior seat one hand basin with a rim height not exceeding 600mm.

- b) A bench type baby bath must be provided on the premises for children aged under 3 years in accordance with Table F2.3-9b of the Building Code of Australia.
- c) No amplification equipment, musical instruments and the like being permitted to be used in outdoor play areas.
- d) The external play activity areas shall be continuously supervised in accordance with the Department of Community Services guidelines and the children encouraged playing and participating in quiet activities to ensure compliance with the required noise criteria.
- e) The childcare centre shall incorporate a system for logging complaints in relation to noise arising from the childcare centre so that such related complaints can be responded to and actioned upon. The complaint logging system shall be kept on the premises and made available when required by Council staff.

## **I.7 Rainwater Tank – Operation and Maintenance**

All rainwater tank systems shall be operated and maintained in accordance with the technical provisions of the NSW Code of Practice for Plumbing and Drainage 3rd Edition 2006, AS/NZS 3500 as adopted by the Building Code of Australia, and the NSW Health Guideline "Use of Rainwater Tanks Where a Public Water Supply is Available".

**Note:** The NSW Health Guideline can be downloaded from [http://www.health.nsw.gov.au/policies/gl/2007/pdf/GL2007\\_009.pdf](http://www.health.nsw.gov.au/policies/gl/2007/pdf/GL2007_009.pdf). The guideline's introduction states: *"In urban areas the public water supply remains the most reliable source of good quality drinking water for the community. In these areas NSW Health supports the use of rainwater tanks for non-drinking uses, such as toilet flushing, washing clothes or in water heating systems, and outdoors for uses such as garden watering, car washing, filling swimming pools, spas and ornamental ponds, and fire fighting. Use of rainwater conserves the public water supply and helps to reduce stormwater impacts. In urban areas NSW Health recommends that people use the public water supply for drinking and cooking because it is filtered, disinfected and generally fluoridated."*

Standard Condition: I35

## **I.8 Operation of Child Care Centre**

The hours of use for the child care centre are limited to 8:30am-3:30pm, Monday to Friday, in order to mitigate amenity impacts upon the neighbourhood.

The number of child care places is limited to a maximum of 60 and must not include children below the age of 2 years.

The maximum period of daily outdoor play for the 60 children is limited to two hours.

**Note:** Deliveries to or dispatches from the site must not be made outside these hours. Trading Hours may be more onerous than these general hours of use. This condition does not apply to activities such as cleaning which takes place wholly within the building and which are not audible within any adjoining residential dwelling. If internal activities are audible within any adjoining residential dwelling such that they cause a nuisance to the occupiers of such dwelling then such internal activities must not occur outside these hours of use. This condition does not restrict the operation of noise pollution laws.

Standard Condition: I1

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

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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](http://www.woollahra.nsw.gov.au).  
Standard Condition: I22

#### **I.10 Commercial Waste Management – Synagogue**

The owner and any occupier must comply with the approved *Waste Management Plan*. All waste must be presented for collection in a receptacle. Waste receptacles must be presented no earlier than close of business on day before collection and removed from collection point an hour after open of business on day of collection. Receptacles are not to be stored in any public place at anytime. Waste and recycling receptacles must be stored at all times within the boundaries of the site.

**Note:** No waste will be collected by Council that isn't presented properly. The waste must be presented with lid closed to reduce littering.  
Standard Condition: I46

#### **I.11 Noise from mechanical plant and equipment- Lift motors, Air Conditioning Plant and Mechanical Exhaust ventilation**

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.

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

**Note:** Words in this condition have the same meaning as in the:  
*NSW Industrial Noise Policy* ([http://www.environment.nsw.gov.au/resources/ind\\_noise.pdf](http://www.environment.nsw.gov.au/resources/ind_noise.pdf))  
ISBN 0 7313 2715 2, dated January 2000, and  
*Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>)  
ISBN 1741370671 , dated December 2004.

#### **I.12 High Holy Days**

The following properties are to be notified of the dates of the High Holy Days at the beginning of each year:

- 1, 3, 5, 11, 13 and 15 Ocean Street
- 3 and 5 Kilminster Lane
- 14 Waimea Lane
- 1-5, 10 and 11-19 Woods Avenue
- 96-108 Wallis Street

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## **J. Miscellaneous Conditions**

Nil.

## **K. Advisings**

### **K.1 Dilapidation Report**

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

- a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the Developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the applicant is to demonstrate in writing to the satisfaction of the Council 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.2 Roads Act Application**

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

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

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

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

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

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

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

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

Drainage design works must comply with the Council's draft Development Control Plan Stormwater Drainage Management (Draft Version 1.1, Public Exhibition Copy dated 14 December 2006), and

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

All public domain works must comply with Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" dated January 2003 unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) .

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

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

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

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

Standard Advising: K24

### **K.3 Criminal Offences – Breach of Development Consent & Environmental laws**

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

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

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

#### Warnings as to potential maximum penalties



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

#### Warning as to enforcement and legal costs

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

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

**Note:** The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of *the Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. You can obtain further information from the following web sites: <http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the Attorney General's [www.agd.nsw.gov.au](http://www.agd.nsw.gov.au).  
Standard Advising: K1

#### **K.4 Dial before you dig**



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

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

Standard Advising: K2

#### **K.5 Commonwealth Disability Discrimination Act 1992 (“DDA”)**

The Disability Discrimination Act 1992 (DDA) makes it against the law for public places to be inaccessible to people with a disability. Compliance with this development consent, Council's Access DCP and the BCA does not necessarily satisfy compliance with the DDA.

The DDA applies to existing places as well as places under construction. Existing places must be modified and be accessible (except where this would involve "unjustifiable hardship").

Further detailed advice can be obtained from the Human Rights and Equal Opportunity Commission (“HEROC”):

- a) <http://www.hreoc.gov.au/index.html>



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- b) [http://www.hreoc.gov.au/disability\\_rights/dda\\_guide/ins/ins.html](http://www.hreoc.gov.au/disability_rights/dda_guide/ins/ins.html)

If you have any further questions relating to the application of the DDA you can send and email to HEROC at [disabdis@humanrights.gov.au](mailto:disabdis@humanrights.gov.au).

Standard Advising: K3

## K.6 NSW Police Service and Road Closures

The Rose Bay Local Area Command closely aligns with the boundaries of the Woollahra local government area.

Council and Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Traffic Sergeant, Paddington Police Station, 16 Jersey Road, Paddington. Phone No.: 0283568299 or Fax No.: 0283568211.

**Warning:** If you partial or full close a road without compliance with Council and Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution.

Standard Advising: K4

## K.7 Builders Licences and Owner Builders Permits

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

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

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

Standard Condition: K5

## K.8 Building Standards - Guide to Standards and Tolerances

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

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

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

The Guide can be down loaded from:

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

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

Standard Condition: K6

## K.9 Workcover requirements

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

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

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

Location: Workcover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address:

WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

Standard Condition: K7

## K.10 Asbestos Removal, Repair or Disturbance

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

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

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

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

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

Standard Advising: K8

## K.11 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—

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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 hazards - 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.12 Dividing Fences

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

**Note:** Further information can be obtained from the NSW Department of Lands - <http://www.lands.nsw.gov.au/LandManagement/Dividing+Fences.htm>. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Over 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1800 671 964 or at <http://www.cjc.nsw.gov.au/>.

Standard Advising: K10

## K.13 Release of Security

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

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

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

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

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

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may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

**Note:** The Application for Refund of Security form can be downloaded from <http://www.woollahra.nsw.gov.au/pdf/Forms/Planning/RefundofSecurity.pdf>  
Standard Condition: K15

#### **K.14 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.15 Pruning or Removing a Tree Growing on Private Property**

Woollahra Municipal Council's *Tree Preservation Order* 2006 (TPO) 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 TPO from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or you may contact Council on 9391-7000 for further advice.  
Standard Condition: K19

Mr Simon Taylor  
**ASSESSMENT OFFICER**

Mr David Waghorn  
**TEAM LEADER**

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#### **ANNEXURES**

1. Plans and elevations
2. Numeric Compliance table
3. Community Services comment
4. Development Engineer comment
5. Traffic and Parking Engineer comment
6. Landscaping Officer comment
7. Urban Design Planner comment
8. Environmental Health Officer comment
9. Fire Safety Officer comment
10. Heritage Officer comment
11. Heritage Inventory Sheet for Temple Emanuel
12. Traffic Consultants Report
13. Final Acoustic Report

## ANNEXURE 2: NUMERIC COMPLIANCE TABLE

	Existing	Proposed	Control	Complies
Overall Height	13.4m	External works to 7.8m	9.5m	YES
Gross Floor Area (including basement car parking)	2600m <sup>2</sup>	3910m <sup>2</sup>	N/A	N/A
Floor Space Ratio (including basement car parking)	0.52:1	0.97:1		
Deep Soil Landscaped Area	Negligible (< 200m <sup>2</sup> )	Approx. 650m <sup>2</sup>		
Excavation Piling & Subsurface Wall Setback	N/A	Nil	1.5m	NO
Solar Access to Ground Level Open Space of Adjacent Properties	> 50% > 2 hours	< 50% to 5 Woods Ave	50% 2 hours	YES
Solar Access to North-Facing Living Areas of Adjacent Properties	> 3 hours	> 3 hours	3 Hours in mid winter	YES
Front Fence Height	1.8m-3.0m	2.8m-3.2m	1.5m	NO
Side and Rear Fence Height	Variable	2.5m	1.8m	NO
Location of Car Parking Structures	Behind	Behind	Behind Building Line	YES
Car Parking Spaces – Synagogue	15 (informal)	14 (formal)	22 spaces /100m <sup>2</sup>	NO
Car Parking Spaces – Child Care		Nil	0.5 spaces /100m <sup>2</sup>	NO
Car Parking Spaces – Total		14 (formal)	344 spaces	NO

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## ANNEXURE 3: REFERRAL RESPONSE – COMMUNITY SERVICES

FILE NO: DA 355/2009/1  
ADDRESS: 7-9 Ocean Street WOOLLAHRA 2025  
PROPOSAL: Partial demolition of the Synagogue, child care and ancillary buildings and the construction of a new Synagogue, new administration building with underground carpark for 15 cars, new ritual baths, new ancillary buildings, new child care centre for 80 children, new security walls and landscaping  
FROM: Susan Turner - Manager Community Development  
TO: Mr S Taylor

Council commissioned a Child Care Study in 2009. The study included comprehensive community consultation which detailed the current and future supply and demand for child care and child care trends in the Municipality. The consultation included residents who were working or non working parents and key service providers to provide a comprehensive understanding of service provision across the Municipality.

The study identified the formal child care services to include Long Day Care, Occasional Care, Family Day Care, Home Based Care and outside Preschool hours. The market for preschool services was combined with the market for formal care, to provide an overall market analysis of children's services in the study.

### Key findings

- An estimation that the current 2009 gap in licensed child care provision in Woollahra (excluding informal care) to be approximately 150 -160 licensed places or around 310-320 children. This gap will peak in the next 2 -3 years and progressively decline to around 125-135 licensed places during the next 15 years assuming no additional supply.
- There is a trend for services to offer increasingly integrated services (i.e. long day care centres offering educational programs, as well as preschools offering extended hours care, in the form of "long day care" style care, and before/after preschool care programs). Facilities offering integrated services provide an opportunity to offer greater flexibility in service provision to the community. As such, the analysis focused on children in the 0 – 5 year old age group using children's services.
- Any response from the market place that addresses the provision of children's services, and especially an integrated service will assist in meeting the demonstrated demand and reduce the current and future gaps.

### Current and Future Market Gap – Formal Care

The expected future demand for formal child care and expected future supply of formal child care within the Woollahra LGA is set out below.

These indicative results show a "gap" in the market between the supply of child care and demand for child care of between 270 – 280 children, which equates to between 125 – 135 licensed places.

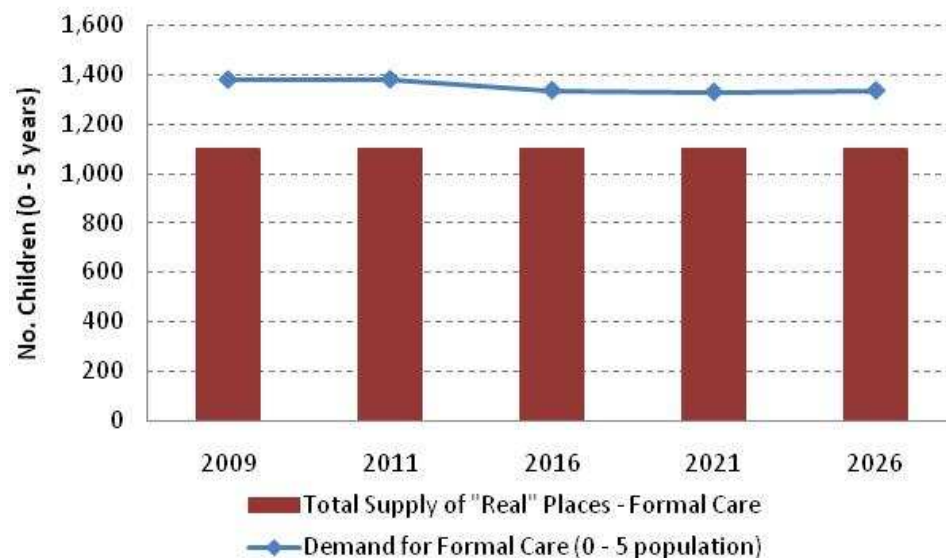
## Woollahra Study Area - Expected Future Demand and Supply for Formal Child Care

	2009	2011	2016	2021	2026
Demand for Formal Care (0 - 5 population)	1,380	1,381	1,336	1,329	1,335
Total Supply of "Real" Places - Formal Care	1,104	1,104	1,104	1,104	1,104
Gap - Formal Care ("Real" places)	276	277	232	225	231
Reverse Multiplier - Formal Care	2.10	2.10	2.10	2.10	2.10
Gap - Formal Care (Licensed places)	132	132	110	107	110

Source: Table 10; Table 16; MacroPlan Australia (2009)

The future expected market gap for formal child care within the study area is seen below.

## Woollahra LGA – Future Market Gap, Formal Care



Source: Table 17; MacroPlan Australia (2009).

## Current Supply

The following table lists the supply of children's services facilities in the Woollahra study area. There are currently a total of 876 licensed places within the Woollahra study area.

## Children's Services supply analysis: Woollahra study area

Name	Type	Address	Suburb	Postcode	LGA	Total Licensed Places
<b>Woollahra Study Area</b>						
St Stephen's Children's Centre	LDC	1 Bellevue Park Road	BELLEVUE HILL	2023	Woollahra (A)	54
The Scots College Early Learning Centre	PRE	8 Mansion Rd	BELLEVUE HILL	2023	Woollahra (A)	60
St Mark's Pre-School	PRE	1 Greenoaks Avenue	DARLING POINT	2027	Woollahra (A)	40
Woollahra Preschool	PRE	512 New South Head Road	DOUBLE BAY	2028	Woollahra (A)	60
Thumbelina Day Care Centre	LDC	25 Walker Ave	EDGECLIFF	2027	Woollahra (A)	16
Early Learning Centre - SDN Paddington	LDC	33 Heeley Street	PADDINGTON	2021	Woollahra (A)	76
K.U.Peter Pan Preschool	PRE	2 Union St	PADDINGTON	2021	Woollahra (A)	40
Paddington Church of Christ Kindergarten	PRE	116 Paddington St	PADDINGTON	2021	Woollahra (A)	25
Bo-Peep Kindergarten	PRE	Cnr Dover Rd and Old South Head Rd	ROSE BAY	2029	Woollahra (A)	25
Ballykin at Rose Bay	LDC	24 Dover Road	ROSE BAY	2029	Woollahra (A)	45
Kinderworld	LDC	2 Carlisle Street	ROSE BAY	2029	Woollahra (A)	24
Kristin's Possum Preschool	LDC	98 Newcastle Street	ROSE BAY	2029	Woollahra (A)	26
Vaucluse Little School	LDC	3 Russell Street	VAUCLUSE	2030	Woollahra (A)	26
St. Michael's Preschool	PRE	Cnr Gilliver Ave and Vaucluse Rd	VAUCLUSE	2030	Woollahra (A)	40
Sir Philip Baxter Child Care Centre	LDC	27 Nelson Street	WOOLLAHRA	2025	Woollahra (A)	55
The Third Bear Playschool	LDC	24 Junction St	WOOLLAHRA	2025	Woollahra (A)	19
The Third Bear Preparatory School	LDC	29 Grosvenor Street	WOOLLAHRA	2025	Woollahra (A)	65
Temple Emanuel Woollahra Preschool	PRE	7 Ocean St	WOOLLAHRA	2025	Woollahra (A)	60
Tammy's Tots	Home Based Licensed Care	8 Captain Pipers Rd	VAUCLUSE	2030	Woollahra (A)	5
Ruth's Child Care	Home Based Licensed Care	4 Nulla St	VAUCLUSE	2030	Woollahra (A)	5
The Kambala Early Learning Centre	LDC	794 - 796 New South Head Rd	ROSE BAY	2029	Woollahra (A)	70
Hug-a-Bub	LDC	662 - 666 Old South Head Road	ROSE BAY	2029	Woollahra (A)	40
<b>Total</b>						<b>876</b>

Source: MacroPlan Australia (2009)

Note- There are three additional Family Day Care services in the Woollahra area providing care for up to five children each that are not listed in the table.



## Effective “Real” Supply – Children’s Services

The 876 licensed places within the Woollahra study area are capable of servicing more than 876 children. This is due to the fact that a child care centre with, for example, 60 licensed places may have “real” capacity for 90 children due to child rotation. That is, if a child attends the centre for three days per week, a second child may use that same licensed place for the remaining two days in that week.

Given that a single licensed place generally has the capacity to cater for more than one child, multipliers have been used to demonstrate the effective supply of children’s services provided by the number of licensed places. That is, the “real” supply.

The table below illustrates the supply of licensed places, with the supply of “real” places which are effectively made available (denominated in the number of children) by those licensed places.

### Woollahra Study Area: Supply of licensed places & Supply of “real” places

	Long Day Care (LDC)					Home Based Licensed Care (HBLC)					Preschool (PRE)					Total		
	Type	No. Centres	No. Licensed Places	Multiplier	No. “Real” Places	Type	No. Centres	No. Licensed Places	Multiplier	No. “Real” Places	Type	No. Centres	No. Licensed Places	Multiplier	No. “Real” Places	No. Centres	No. Licensed Places	No. “Real” Places
			[A]	[B]	[A] x [B]			[A]	[B]	[A] x [B]			[A]	[B]	[A] x [B]			
BELLEVUE HILL	LDC	1	54	2.10	113	HBLC	0	0	2.10	0	PRE	1	60	1.70	102	2	114	215
DARLING POINT	LDC	0	0	2.10	0	HBLC	0	0	2.10	0	PRE	1	40	1.70	68	1	40	68
DOUBLE BAY	LDC	0	0	2.10	0	HBLC	0	0	2.10	0	PRE	1	60	1.70	102	1	60	102
EDGECLIFF	LDC	1	16	2.10	34	HBLC	0	0	2.10	0	PRE	0	0	1.70	0	1	16	34
PADDINGTON	LDC	1	76	2.10	159	HBLC	0	0	2.10	0	PRE	2	65	1.70	111	3	141	270
ROSE BAY	LDC	5	205	2.10	430	HBLC	0	0	2.10	0	PRE	1	25	1.70	43	6	230	473
VAUCLUSE	LDC	1	26	2.10	55	HBLC	2	10	2.10	21	PRE	1	40	1.70	68	4	76	144
WOOLLAHRA	LDC	3	139	2.10	292	HBLC	0	0	2.10	0	PRE	1	60	1.70	102	4	199	394
<b>Total</b>		<b>12</b>	<b>516</b>		<b>1,083</b>		<b>2</b>	<b>10</b>		<b>21</b>		<b>8</b>	<b>350</b>		<b>596</b>	<b>22</b>	<b>876</b>	<b>1,700</b>

Source: MacroPlan Australia - Operator Survey (2009)

Note: There are three additional Family Day Care services in the Woollahra area providing care for up to five children each that are not listed in the table. One in each of the following suburbs, Bellevue Hill, Paddington and Double Bay.

There are 526 licensed places (which equates to 1,104 effective “real” places) for child care within the Woollahra study area. However, the 350 licensed places for preschool (which equates to 596 effective “real” places) are capable of serving the needs of a large proportion of 3 – 5 year olds within the catchment. Therefore the total effective supply within the catchment is 876 licensed places (which equates to 1,700 effective “real” places) for children’s services within the study area.

### Children’s Services supply analysis: Woollahra LGA

	No. Centres	No. Licensed Places	Multiplier	Effective “real” supply of places
		[A]	[B]	[A] x [B]
<b>Formal Care</b>				
Long Day Care	12	516	2.10	1,083
Home Based Licensed Care	2	10	2.10	21
<b>Total supply of childcare</b>	<b>14</b>	<b>526</b>	<b>-</b>	<b>1,104</b>
<b>Educational</b>				
Preschool **	8	350	1.70	596
<b>Total supply of preschool</b>	<b>8</b>	<b>350</b>	<b>-</b>	<b>596</b>
<b>Children’s Services</b>				
<b>Total effective supply</b>	<b>22</b>	<b>876</b>	<b>-</b>	<b>1,700</b>

\*\* Long Day Care multiplier used for Preschool

Source: MacroPlan Australia (2009)

## Journey to Work Analysis



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The study showed the following key findings:

- 9,352 Woollahra LGA residents travel to Inner Sydney (C) – East SLA and Sydney (C) – Inner SLA for their employment
- 9,472 Waverley LGA residents travel to Inner Sydney (C) – East SLA and Sydney (C) – Inner SLA for their employment
- The main road transit corridors are Old South Head Road, New South Head Road, Syd Einfield Drive and Oxford Street.
- The majority of existing children's services centres are located along these main road transit corridors

The DA proposal for a child care facility along Ocean Street, Woollahra would be ideally locate in terms of the Journey to Work analysis.

### Licensing

The Department of Community Services (DoCS) is responsible for granting licences for all child care centres. The current licensing regulations contain standards and requirements for the layout of buildings used as child care centres and for the maximum number of children, staff, centre amenities and playground areas.

The Children's Services Regulation 2004 requires that where development consent is required under the EP&A Act, an application for licence may not be made until development consent has been obtained. Therefore, a development application for a child care centre is to be approved prior to the lodgement of a licence application to DoCS.

### Recommendation

In view of the "gap in the market" for child care services in the Woollahra Municipality, it is disappointing that the initial DA has been resubmitted with a reduced number of child care places and so, would encourage the applicant to consider expanded places in any future development of the site.

The above research supports the demand for more child care provision in the Woollahra LGA. Therefore it is recommended that DA 355/2009/1 be approved as it will continue to provide a much needed service to families in the area.

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## ANNEXURE 4: REFERRAL RESPONSE – TECHNICAL SERVICES

FILE NO DA 355/2009/1  
ADDRESS 7-9 Ocean Street WOOLLAHRA 2025  
PROPOSAL Partial demolition of the Synagogue, child care and ancillary buildings and the construction of a new Synagogue, new administration building with underground carpark for 15 cars, new ritual baths, new ancillary buildings, new child care centre for 80 children, new security walls and landscaping  
FROM Yoram Wise - Development Engineer  
TO Simon Taylor

I refer to the following documents received for this report:

1. Architectural plans by Indyk architects P/L, DA1.00C to DA1.04C, DA1.05F to DA1.10F, DA1.11C and DA1.12C DA1.13D, DA1.14E to DA1.17E, DA1.18C and DA1.19B
2. Survey plan by Hard & Forester, dated 26/11/2007
3. Statement of Environmental Effects (addendum) by aSquare Planning, dated 01/2010
4. Stormwater disposal concept plan prepared by ACOR Consultants, Dwg No. C1.01 revision D and Dwg No. C1.02 revision A
5. Geotechnical Report prepared by Douglas Partners, dated 03/2009, Project No. 45892
6. Transport Assessment by ARUP, dated 15/04/2009
7. Construction Management Plan (CMP) by Indyka and Associates, dated 05/2009
8. Addendum to the CMP by Panteq Constructions P/L, dated 18/01/2010

### Site Drainage

There are no objections to Stormwater disposal concept plan prepared by ACOR Consultants, Dwg No. C1.01 revision D and Dwg No. C1.02 revision A. This concept plan is subject to the submission and approval of Stormwater Management Plan for the site prior to release of the Construction Certificate. Details are to be in accordance with Council's Draft Stormwater Development Control Plan and Local Approvals Policy. This is to ensure that site stormwater is disposed in a controlled and sustainable manner - Conditions applied.

Council's Technical Services Division is satisfied that adequate provision has been made for the disposal of stormwater from the land it is proposed to develop and complies with the provisions of Clause 25 (2) of WLEP 1995

### Construction Management

A Construction Management Plan (CMP) by Indyka and Associates, dated 05/2009 has been submitted in favour of the application. Council's Traffic Engineer has made the following comments:

*"It is proposed to access the site via Ocean Avenue and Woods Avenue during each stage of works however no details are given regarding construction vehicle volumes or manoeuvres.*

*The plan has stated in general terms that the majority of construction activities may be undertaken on the site and this would appear feasible.*

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*A critical concern to be addressed is the impact on amenity to Woods Avenue given this is subject to a very low of through traffic and therefore the additional construction traffic volume would be noticeable”.*

*“Some preliminary vehicle types and volumes have been provided. It is evident that these traffic volumes and manoeuvres may be accommodated in the surrounding road network however a detailed CMP will be required should any consent be issued for these works”.*

*For full comments, see attached Referral Response by Council’s Traffic Engineer at the end of this document.*

*An amended CMP is to be submitted to and approved by Council prior to the Construction Certificate stage. The amended CMP is to include Council’s Traffic Engineers concerns and is to be in general accordance with Council’s requirements for a CMP which can be found on the Council’s website.*

### Impacts on Council Infrastructure

- Kilminster Lane

There are no proposed or approved works on Council’s infrastructure. The footpath and K&G are in serviceable condition.

- Woods Avenue

Currently, there is a non complying vehicle crossing to the site. The existing crossing is to be fully removed a new 4.0m wide crossing is to be constructed in accordance with Council’s standard drawing RF2.

- Ocean Street

Currently, there is a non complying vehicle crossing to the site. The existing crossing is to be fully removed a new 4.0m wide crossing is to be constructed in accordance with Council’s standard drawing RF2.

### Traffic

A Transport Assessment Report by ARUP dated 15/04/2009 has been submitted in favour of the application. Council’s Traffic Engineer has made the following comments:

*“It was noted in the original Referral Response that the proposed offstreet parking capacity falls considerably short of the volume stipulated by Council’s Offstreet Parking DCP requirements. The applicant has stated that the post-development congregant numbers will match existing levels (except during the High Holy Day periods) and therefore the present parking regime will remain unaltered in the surrounding area. For the High Holy Day periods, the applicant has indicated the Synagogue is committed to providing a shuttle bus to mitigate the additional parking demand generated.*

*The revised plans have reduced the original garage capacity by one carspace. This is relatively minor in comparison to the parking shortfall resulting from the proposal”.*

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*"The amended application has resulted in the reduction of the proposed basement garage by one car space (to resolve a separate issue) and the capacity of the childcare facility has been reduced to match the existing service of 60 children.*

*The applicant has appealed the proposal maintains the status quo with respect to the parking demands and traffic generation of the facility and therefore does not adversely effect the current level of parking demand.*

*Whilst this is agreed to, it is poor that the development retains the heavy reliance upon the onstreet parking conditions around the site to service its needs when the area is already subject to a moderate to high level of parking demand. For this reason, Council's Traffic Section does not support the proposed development application".*

For full comments, see attached Referral Responses by Council's Traffic Engineer at the end of this document.

#### Vehicle Access and Accommodation

- Footpath levels

The existing footpath level and grade at the street alignment of the property must be maintained.

Note: any adjustments required between the garage slab / driveway and the street levels are to be carried out internally on private property. The driveway levels are to comply with AS2890.1 and Council's Standard Drawing RF2.

- Parking Layout

The garage parking envelope and access comply with AS 2890.1 – No specific conditions required

#### Geotechnical, Hydrogeological and/or Structural

A Geotechnical Report by Douglas Partners, dated 03/2009, Project No. 45892 has been submitted in support of the application. The proposal involves excavation for a new foyer and lift up to 2.0m, the lowest floor level to the south of the synagogue up to 4.0m and up to 3.0m of excavation for the carpark floor level.

The report identified that the subsurface profile generally comprise of fill between 0.5m and 1.6m overlying sand to depths of 2.0m and 4.1m overlying sandstone bedrock. Accurate depths of each material can be found in the Geotechnical Report.

Groundwater was observed in BH5 at a depth of 3.2. It is most likely that the groundwater within the BH is associated with seepage flowing along the rock surface.

The report made comments and recommendations on the following:

- Care in excavation adjacent of adjacent walls
- Excavation Conditions
- Disposal of excavated Material

- 
- Groundwater Seepage
  - Dilapidations Surveys
  - Vibrations
  - Excavation support
  - Foundations
  - Floor Slabs and Pavements
  - Impact of Development on Hydrogeology of the Site

Conditions covering these matters as well as others identified by Council have been added to the Referral.

Council's Technical Services has no objection to the proposed excavation on technical grounds. However, it should be noted that any proposed excavation is also to comply with Council's other requirements as set out in the applicable development controls and in particular the setbacks from boundaries.

### **Recommendation**

Council's Development Engineer has determined that the proposal is not satisfactory in its current state due to unsatisfactory impact on traffic demand.

## ANNEXURE 5A: REFERRAL RESPONSE (NO. 1) – TRAFFIC

**FILE NO** DA 355/2009/1  
**ADDRESS** 7-9 Ocean Street, Woollahra  
**PROPOSAL** Partial demolition of the Synagogue, child care and ancillary buildings and the construction of a new Synagogue, new administration building with underground carpark for 15 cars, new ritual baths, new ancillary buildings, new child care centre for 80 children, new security walls and landscaping  
**FROM** Dan Pearce  
**TO** Simon Taylor

### Traffic Generation and Parking Demand - Synagogue development

The applicants Traffic Report has basically performed a parking survey of the surrounding area (approx. 350m radius around the site) and surveyed congregants to analyse the level of parking demand presented by the existing use. The report concedes that the proposal essentially relies upon onstreet parking to accommodate the majority of parking demand for the proposed development however this may be accepted as noted following:

- The survey revealed there is generally a high demand for parking in the area. Due to the limited number of spaces available, it states there will be minimum impact upon the existing situation.
- Most of the surrounding district is covered by time restricted parking that does not accommodate service periods and therefore these spaces are not utilised.
- It acknowledges the parking demand will be greater than existing for the High Holy Day periods however notes these are only 4 days of the year. For the remainder of the period, the report has stated "synagogue attendance will not differ significantly from its current levels".

Council's Traffic section has reviewed the report and the following matters are to be noted when taking the recommendations into consideration:

- The parking survey data does not give a true indication of onstreet parking demand in the immediate vicinity of the site given it was conducted over an extensive area (approximately 400m either side of Queen Street) and is comprised of retail area (Queen Street) and residential which would have contrasting hours of peak parking demand. The data therefore diminishes the true impact upon the on street parking conditions immediately surrounding the site.
- There are spans of unrestricted parking near the site including Wallis Street (west of Ocean Street), Ocean Street, John Street (southern side) and Queen Street (east of Ocean Street). These spaces will obviously be heavily utilised by congregants to services.

Obviously the proposal does not comply with the Offstreet Parking DCP which stipulates, as an objective, that all developments must make provision off the street for the parking demands of the proposal. The minimum number of parking spaces for the proposed development as specified by the DCP is to be noted as follows;

Building/ Use	Area <sup>1</sup>	Parking Rate <sup>2</sup> (per 100m <sup>2</sup> )	Parking Spaces Required <sup>3</sup>
Conservative Synagogue	572 m <sup>2</sup> (654 seating capacity)	22 Spaces	126
Childcare Centre	260 m <sup>2</sup> (4 Classrooms@65m <sup>2</sup> )	0.5 Spaces	2

Progressive Synagogue	476 m <sup>2</sup> (560 seating capacity)	22 Spaces	105
Community Building	152 m <sup>2</sup>	2 Spaces	3
Administration (Lvl 1 Community Building)	275 m <sup>2</sup>	2.5 Spaces	7
Renewal Minyan	99 m <sup>2</sup>	2 Spaces	2
Education (Lvl 1 Renewal Minyan)	130.7 m <sup>2</sup>	2 Spaces	3

1. Based on Architectural Plans DA01.07C & DA01.06C
2. Refer Table 2.4 & Table 2.5 of the Woollahra Offstreet Parking DCP
3. All spaces rounded up

Despite the significant degree in non-compliance, it would appear that the proposed development of the synagogue essentially maintains the existing level of services (disregarding the High Holy Days period).

The Traffic Report has made a number of recommendations to mitigate the traffic and parking impact and the most notable is the potential for a shuttle bus to collect congregants from the surrounding area. It is apparent by the traffic report survey that a high proportion of congregants live within the Municipality and therefore this is a viable option that would appease the parking concern.

### Pickup/Drop Off – Childcare Facility

The applicant has indicated the current set down/ pickup operations involve parents dropping children off to carers on the corner of Woods Avenue and Wallis Street. It is understood the child care centre has attempted to discourage parents from entering Woods Avenue as this generates noticeable congestion due to the lack of an efficient turning area in this short lane.

The Traffic Report has analysed the existing level of traffic generation for the morning and afternoon pickup/ dropoff periods and surveyed parents regarding the means of transport to the facility. From this data, the report has estimated there will be an additional 6 vehicles setting down/ picking up children throughout this period.

There is currently a length of onstreet parking in Wallis Street, 27 metres north of the Woods Avenue intersection, that has restrictions intending to accommodate the pick up/ drop off needs of the current facility. The applicant has proposed this be swapped over with the restricted parking adjacent to Woods Avenue to minimise the walking distance from the childcare centre.

Council's Traffic section notes that the proposed development of the childcare centre does not satisfy the objectives of the Child Care Centre DCP or Council's Offstreet Parking DCP in relation to the pickup/ dropoff arrangement. The following non-compliances with section 2.5 of the Childcare Centre DCP are noted:

- Controls 2.5.1 to 2.5.4 basically specify that provision shall be made on the site for the pickup/ dropoff manoeuvres. The site has frontage to Ocean Street, Woods Avenue and Kilminster Lane and therefore there is opportunity to provide this.
- Control 2.5.5 permits onstreet parking to be utilised in lieu of the above subject to site constraints. The control specifies that the application must demonstrate there is capacity for this to be provided on the street. The application does not address this.

Notwithstanding this non-compliance, the proposed relocation of the 15min parking zone closer to Woods Avenue is not supported as it does not greatly reduce the walking

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distance to the child care facility (some 20 metres) and will inconvenience residents in Woods Avenue and those terraces in Wallis Street adjoining Woods Avenue.

### **Construction Management Plan**

It is proposed to access the site via Ocean Avenue and Woods Avenue during each stage of works however no details are given regarding construction vehicle volumes or manoeuvres.

The plan has stated in general terms that the majority of construction activities may be undertaken on the site and this would appear feasible.

A critical concern to be addressed is the impact on amenity to Woods Avenue given this is subject to a very low of through traffic and therefore the additional construction traffic volume would be noticeable.

### **Recommendation**

Council's Traffic Section does not support the development application given that the additional parking demands and traffic generation will adversely affect the surrounding road network. Please refer to the detailed comments above.



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## **ANNEXURE 5B: REFERRAL RESPONSE (No. 2) – TRAFFIC**

**FILE NO** DA 355/2009/1  
**ADDRESS** 7-9 Ocean Street, Woollahra  
**PROPOSAL** Partial demolition of the Synagogue, child care and ancillary buildings and the construction of a new Synagogue, new administration building with underground carpark for 15 cars, new ritual baths, new ancillary buildings, new child care centre for 80 children, new security walls and landscaping  
**FROM** Dan Pearse  
**TO** Simon Taylor

These comments are to be read in conjunction with and reference to the following documents:

- Engineering Services – Traffic Section Referral Response dated 25<sup>th</sup> August 2009
- Statement of Environmental Effects Addendum by aSquare Planning dated July 2009
- Transport Assessment by ARUP (Refer Rev A dated 15<sup>th</sup> April 2009)
- Construction Management Plan by Indyka and Associates dated May 2009

### **Parking Demand**

It was noted in the original Referral Response that the proposed offstreet parking capacity falls considerably short of the volume stipulated by Council's Offstreet Parking DCP requirements. The applicant has stated that the post-development congregant numbers will match existing levels (except during the High Holy Day periods) and therefore the present parking regime will remain unaltered in the surrounding area. For the High Holy Day periods, the applicant has indicated the Synagogue is committed to providing a shuttle bus to mitigate the additional parking demand generated.

The revised plans have reduced the original garage capacity by one carspace. This is relatively minor in comparison to the parking shortfall resulting from the proposal.

### **Childcare Facility**

The applicant has amended the development application to reduce the capacity of the childcare centre equal to the present arrangement except catering to younger children from 0 to 2 years. As such, the applicant has appealed the existing pickup/ dropoff regime will remain unaltered. It is agreed that the current level of traffic associated with the childcare centre is unlikely to change despite the alterations to the ages the childcare facility accommodates.

### **Construction Management Plan**

Some preliminary vehicle types and volumes have been provided. It is evident that these traffic volumes and manoeuvres may be accommodated in the surrounding road network however a detailed CMP will be required should any consent be issued for these works.

### **Recommendation**

The amended application has resulted in reduction of the proposed basement garage by one car space (to resolve a separate issue) and the capacity of the childcare facility has been reduced to match the existing level of service (60 children).

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The applicant has essentially appealed that the proposal maintains the status quo with respect to the parking demands and traffic generation of the facility and therefore does not adversely affect the current parking regime around the site. It is noted that the synagogue heavily relies upon on-street parking to service its parking requirements. As the area is already subject to a moderate - high level of parking demand, a continuation of this is unsatisfactory and therefore, Council's Traffic Section does not support the proposed development application.

Should the Planning Department elect to approve the development, the following conditions of consent are advised.

The following condition is to be inserted under section F, "Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)";

- **Transport Management Plan**

To minimise the impact upon on street parking during peak operating periods of the Synagogue (High Holy Days), a detailed *Transport Management Plan* must be prepared and submitted to Council's Engineering Services for approval.

The objective of the *Transport Management Plan* is to specify the management and operation of a shuttle bus service which is to operate during peak periods. The plan must contain (but not be limited to) the following details;

- Shuttle bus route and service stops.
- Bus capacity.
- Operating times and dates/ periods.

The plan is a control document which is to be implemented in the ongoing use of the synagogue and so the use of ambiguous or subjective wording will not be accepted.

The following condition is to be inserted in the section I "Conditions which must be satisfied during the ongoing use of the development";

- **Compliance with the Transport Management Plan**

The management/ administrative authority of the synagogue must implement the approved *Transport Management Plan* submitted in accordance with the condition labelled "Transport Management Plan"

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## ANNEXURE 6A: REFERRAL RESPONSE (NO. 1) – TREES AND LANDSCAPING

**FILE NO** DA 355/2009/1  
**ADDRESS** 7-9 Ocean Street WOOLLAHRA 2025  
**PROPOSAL** Partial demolition of the Synagogue, child care and ancillary buildings and the construction of a new Synagogue, new administration building with underground carpark for 15 cars, new ritual baths, new ancillary buildings, new child care centre for 80 children, new security walls and landscaping  
**FROM** David Grey - Tree & Landscape Officer  
**TO** Simon Taylor

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by aSquare Planning, dated July 2009
- Survey Plan No. 109323001, drafted by, Hard & Forester, dated 26 November 2007
- Architectural Drawing No.DA1.01C to DA1.18C, drawn by Indyk Architects, 19 June 2009
- Stormwater drainage Plan No. C1.01 & C1.02, drawn by Acor Consultants, dated November 2008
- Arborists Report & Construction Impact Statement, written by Earthscape Horticultural Services, dated April 2009
- Landscape Plan No. ES-LA1, designed by CAB Consulting, dated 20 March 2009

### Issues

- Impacts to Heritage listed Moreton Bay Fig (Tree 32)
- Impacts to Atlantic Cedar (Tree 21)
- Impacts to Brown Pines (Tree 33 & 35)

### Comments

#### Moreton Bay Fig (Tree 32)

This proposal would have unacceptable impacts on a *Ficus macrophylla* Moreton Bay Fig standing on this property, adjacent to the eastern Woods Avenue frontage. This tree is listed as a Heritage item in Woollahra Council Local Environment Plan 1995(LEP) and as a Significant Tree in Woollahra Council Register of Significant Trees.

Objective 2 (f) (iii) of the LEP states: ‘to control or minimise the impact of future development upon natural features such as significant trees ...’

The Register of Significant Trees estimates this tree to be greater than 130 years old. The tree is associated with the Woods Avenue terraces and is a remnant of the original Waimea estate significantly pre-dating the Temple Emanuel. The unsympathetic development of adjacent surfaces with bitumen and masonry was noted in the register.

During my inspection I noted that previous developments adjacent to the tree have been unsympathetic to the health of the tree. This proposal exacerbates the situation rather than improving it. The tree will be impacted by developments on all sides.

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Supplied Indyk sectional drawings DA1.14C and DA1.15C indicate excavations to lower the existing driveway as it passes the north face of the tree. I assume that the existing grade of this driveway is to cross over major elements of the root system of the Fig tree. The drawings appear to indicate excavations in the order of 200mm. This excavation would have unacceptable impacts on the root system of the tree.

Supplied Indyk plan drawing DA1.06C indicates the construction of an office building on the east face of the tree. This proposed building is within 4 metres of the centre of the tree. Given the basal flare of roots of this tree, I anticipate that works would be much closer to major buttress supportive roots of this tree than 4 metres. I have no recollection of this building being indicated in the materials supplied for the Pre DA submission.

No detail has been supplied relating to the construction of the pedestrian ramp proposed to be located on the west face of the tree. The applicant was advised in the Pre DA referral that the footings for this ramp were seen as a problem and that detailed information should be supplied regarding construction of the footings for the ramp.

In the supplied arborists report the arborist has calculated the Tree Protection Zone (TPZ) for the Fig tree as being 15 metres radius from the centre of the tree. I find the arborists definition of the level of protection afforded by the TPZ to be ambiguous. Part 12.1.2 of the report states that *'The following activities should be avoided within the specified Tree Protection Zone.'* This lacks defined levels of protection.

The arborist has also defined a Critical Root Zone (CRZ). This is an area measured radially from the centre of the tree where *'incursions are not recommended'*. I also find this ambiguous. It is difficult to draw a distinction between the TPZ and the CRZ. There seems to be a great disparity between the calculated TPZ of 15 metres and a CRZ of 2.5 metres when compared with similar calculations for other trees listed in the report. I find the recommended Tree Protection Measure (Part 12.6) to be generic and not specifically related to the protection of this tree. The applicant was advised in the Pre DA referral to provide detailed information regarding the protection of this tree.

The arborist states in Appendix 5 that the likely impacts to this tree are *'Excavations for building foundations may result in severance of woody roots, leading to adverse impacts.'* This is not acceptable in the management of this important tree.

### **Atlantic Cedar (Tree 21) and Brown Pines (Tree 33 and 35)**

The arborist has stated in Appedix 5 of the report when addressing likely impacts to these three trees that *'Extent of incursion to root zone exceeds acceptable limits – likely to result in an adverse impact'*. This indicates unacceptable impacts to these trees. I am not able to recommend approval of a proposal that contains these assessments.

### **Recommendation**

Council's Tree and Landscape Officer has determined that the proposal is not satisfactory in its current form. Refusal of this application is recommended for the following reasons;

- The proposal has unacceptable impacts on a number of trees on the site. The applicant should be advised to redesign this proposal to afford greater protection to the root system of trees proposed to be retained.
- Site specific information must be supplied in terms of construction methods that would involve excavations near important trees on the site. Works exclusion zones must be clearly defined.

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- The design of the proposal must reflect the arborists calculated Tree Protection Zones.

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## **ANNEXURE 6B: REFERRAL RESPONSE (NO. 2) – TREES AND LANDSCAPING**

FILE NO DA 355/2009/1  
ADDRESS 7-9 Ocean Street WOOLLAHRA 2025  
PROPOSAL Partial demolition of the Synagogue, child care and ancillary buildings and the construction of a new Synagogue, new administration building with underground carpark for 15 cars, new ritual baths, new ancillary buildings, new child care centre for 80 children, new security walls and landscaping  
FROM David Grey - Tree & Landscape Officer  
TO Simon Taylor

I refer to the following documents received for this report:

- Statement of Environmental Effects - Addendum, prepared by A Square Planning, dated January 2010
- Survey Plan No.109323001, drafted by Hard & Forester, dated 26 November 2007
- Architectural Drawing No.DA1.05F to DA1.10F, DA1.14E, DA1.15E to DA1.17E, DA1.19B, drawn by Indyk Architects, dated 21 January 2010 (Issue F).
- Arborists Report, written by Earthscape Horticultural Services, dated January 2010
- Landscape Plan No. ES-LA1-B, designed by CAB Consulting, dated 20 January 2010 (Amended).

### **Issues**

Compliance with recommended tree protection measures

### **Comments**

The proposed modifications to the original proposal represent a substantial compensation to the welfare of trees to be retained on the site.

To ensure that the arborists advised tree protection measures are complied with I have recommended the imposition of condition B2. This condition requires that a qualified arborist visits the site on a regular basis to ensure that all tree protection measures are complied with. The arborists site visits are to be recorded in a Log Book held on the site by the site foreman. These site visits should commence at the first day of works to ensure that tree protection measures are the first works to be undertaken on the site.

In most instances I have recommended fenced protection areas around trees of smaller radius dimensions than those recommended by the consultant arborist. It would not be possible to conduct works on the site with the Tree Protection Zones fenced at the recommended maximum distances. However, I have recommended that the maximum Tree Protection Zones are observed in terms of works such as excavations being conducted in the TPZ areas.

### **Recommendation**

Council's Tree and Landscape Officer has determined that the development proposal is satisfactory in terms of tree preservation and landscaping, subject to conditions of consent.

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## ANNEXURE 7: REFERRAL RESPONSE – URBAN DESIGN

FILE NO DA 355/2009/1  
ADDRESS 7-9 Ocean Street WOOLLAHRA 2025  
PROPOSAL Partial demolition of the Synagogue, child care and ancillary buildings and the construction of a new Synagogue, new administration building with underground carpark for 15 cars, new ritual baths, new ancillary buildings, new child care centre for 80 children, new security walls and landscaping  
FROM Tom Jones Urban Design Planner  
TO Mr S Taylor

### Background

This amended referral response considers the alterations in the amended proposal relating to the urban design concerns raised in the previous referral.

This referral should be read with reference to the previous Urban Design Referral dated 15 July 2009

### Material Presented

The amended DA application dated January 2010 includes the following information which informs this urban design referral response.

- Architectural Drawings: Indyk Architects- 0704 DA1.05F -DA1.10F, DA1.13D, DA1.14E- DA1.17E, dated 19/06/09 DA1.19B dated 17/11/09
- Landscape Drawing: CAB – ES-LA1-B dated 20 March 2009
- Statement of Environmental Effects *Addendum*: aSquare Planning AP 267 dated January 2010

### Physical Context

The site, situated in the southern part of the suburb of Woollahra, is an established religious enclave surrounded by residential development. The approximately 4000sqm site is predominantly back lands. The site, which accommodates a number of buildings and mature trees, rises slowly to the south. There are three frontages to the public domain. These are to; Ocean Street, Kilminster Lane and Woods Avenue.

The site's western frontage on Ocean Street is 90m to the north of the junction of Ocean Street and Oxford Street.

The east side of Ocean Street between Queen Street to the north and the site is predominantly houses setback between 2m and 6m from the back of pavement line. From the site to the junction with Wallis Street to the south there are four residential flat buildings, the three closest are three storey and are all setback 5m from the back of pavement line.

The site frontage to Ocean Street is 24.6m wide. Presently a forecourt and small reception building are sited in front of the Synagogue which is setback over 42m from the street frontage. The forecourt and the mature trees it accommodates form a significant part of the streetscape of both Ocean and John Streets.

Directly opposite the site's Ocean Street frontage is John Street, a straight residential

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street. The façade of the existing synagogue fronts the forecourt adjacent to Ocean Street and terminates a 500m vista along the length of John Street. To the south of John Street, a high and intrusive boundary wall fronts onto the west side of Ocean Street, to the north of John Street are terraces setback 1.5m from the back of pavement line.

Kilminster Lane is a narrow service lane 6m wide, the south end of which terminates at the site. This potential access point is presently not used, there is however visual access into the site. Kilminster Lane is only significant because of the Elms Reserve pocket park and 5 Kilminster Lane which is an early Glen Murcutt house of considerable architectural interest.

Woods Avenue is a 60m long Cul-de-sac running north from Wallis Street. The site has a frontage at the northern end of a row of terrace houses on the west side of the Avenue. The 12.5m frontage includes a terrace house. The subject site is an almost unnoticeable part of the visual composition of the Avenue.

## **Proposal**

The proposal is to retain the existing Progressive Synagogue on site, but to remove a number of other lesser buildings and build three significant new structures. These are the Community Building, the Renewal Minyan and the Conservative Synagogue. The proposal also proposes significant blast walls to the Ocean Street and Kilminster Lane frontages up to 3.3m high. These 500mm thick concrete walls are to secure the inside of the development from potential car bomb blasts associated with anti-semitic terrorist activity.

## **Compliance with Controls**

The Woollahra LEP 1995-

(2) The objectives of this plan are (k) in relation to urban design -

(i) to promote the creation and upkeep of an attractive and comfortable public environment,

This objective is not met by the proposal.

The Woollahra HCA DCP 2003

O1 of 3.3.10: *To ensure that all new work is carried out with due regard to the significance of the building and its setting.*

This objective is met by the proposal.

O1 of 3.4.7: *To ensure the removal of non-original, intrusive tall masonry fences on street alignments and to prevent the construction of tall masonry fences on street alignments.*

O2 of 3.4.7: *To ensure fences, walls and gates contribute positively to the streetscape and improve safety and amenity for residents.*

These objectives are now met by the proposal.

C1 of 3.4.3: *Where there are uniform levels or setbacks within the streetscape, infill development is to be consistent with the levels and setbacks of the adjoining buildings.*

C2 of 3.4.3: *Where front building setbacks vary:*

- *if there is a dominant pattern adjoining, new development is to align with that pattern*
- *if there is an existing stepped pattern, new development is to provide an appropriate transitional front setback between adjoining properties*



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- *if there is no predominant pattern, new development is to align with the existing adjoining development the most compatible in scale with the proposed development, or is to achieve a transitional setback between the properties on either side.*

These controls are complied with by the proposal.

It is noted that if this application is assessed under existing use rights, the compliance or non compliance of the proposed work with the statutory controls is not a consideration in the assessment of the proposal.

Planning principles in relation to the assessment of development applications based on existing use rights were stated by Senior Commissioner Roseth in *Fodor Investments v Hornsby Shire Council* (2005) 141 LGERA 14 at 17 as follows:

*Four questions usually arise in the assessment of existing use rights developments, namely:*

How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites? (Principle 1)

*While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessment...*

## **Urban Design Review**

The proposal creates a grouping of buildings which will be of considerable richness and spatial quality. The spaces created on site will be enjoyable and create a comfortable environment.

The emphasis of this referral response however is on the impact the proposal will have on the established public domain off the site. The three significant new buildings will have limited exposure from off the site.

The Wood Avenue frontage has minimal exposure and is sensitively treated with the refurbished terrace building and the retention of the significant fig tree meaning the existing visual hierarchy is retained.

The child centre is a traffic generator, there appears to be no provision for parking. Additional vehicles in this Avenue, which has no turning facilities, will impact on the amenity of the residential properties. Access and egress from the new Conservative Synagogue could potentially exacerbate this impact. Please refer to the traffic referral.

The Kilminster Lane frontage is insignificant and although the high wall facing the lane may not be contributing to the visual quality of this location, it is considered typical and not an amenity impact.

The significant visual impact of this development is on Ocean Street and John Street. The proposed Blast Wall is over 3m high and runs from boundary to boundary, but is now setback 2m and 5m from the street frontage. Outside this wall 24 one meter high bollards are proposed on the back of pavement line. The bollards on the crossover to the

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underground car parking retract into the pavement.

The pushing back of the Blast Wall to the adjacent building line and the placing of substantial vegetation in front of that line has considerably reduced its visual impact when compared to the previous proposal.

The Blast Wall blocks views from the public domain of the west face of the Synagogue which is a building of recognised architectural quality. However this is considered an inevitable impact of developing in the forecourt. The new community building in the forecourt area has a setback of over 8m from the back of pavement line. This building behind the repositioned Blast Wall can now be seen from more positions in the street and has the potential to become a contributory part of the streetscape.

### **Recommendation**

The proposal is satisfactory from an Urban Design perspective. The Blast Wall has now been repositioned so that it contributes to the architectural merit of the proposal. The urban design recommendation now is that the proposal is acceptable.

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## ANNEXURE 8: REFERRAL RESPONSE - HEALTH

FILE NO DA 355/2009/1  
ADDRESS 7-9 Ocean Street WOOLLAHRA 2025  
PROPOSAL Partial demolition of the Synagogue, child care and ancillary buildings and the construction of a new Synagogue, new administration building with underground carpark for 15 cars, new ritual baths, new ancillary buildings, new child care centre for 80 children, new security walls and landscaping  
FROM Graeme Reilly Environmental Health Officer  
TO Mr S Taylor

Comments are made on the amended documents (i) Statement of Environmental Effects Addendum dated January 2010 and Revised Acoustic Assessment prepared by AECOM Australia dated 07 January 2010.

### Development Description

The proposed work consists of a redevelopment of the existing Synagogue site and child care facility in two stages with a possible interim period of approx 5 years between Stage 1 and 2.

The first stage of works is understood to comprise demolition of an existing facility on the northern edge of the site, the construction of a new administration and library building, underground car park, new forecourt and courtyard with new landscaping, renovations to the existing education building.

The second stage of the works is understood to comprise demolition of the existing childcare facility and construction of the new childcare facility and conservative synagogue.

Between the two stages it is proposed to continue operating the existing childcare facility in its existing location and with the existing number of children and staff.

The childcare facility has been designed to the Children's Services Regulation 2004 and the Woollahra Council's Child Care Centre DCP April 2006.

### Background

AECOM, formerly Bassett Acoustics, was commissioned by Indyk Architects to provide a DA Acoustic Assessment Report for the proposed redevelopment of the Emanuel Synagogue site and associated childcare facility, located at 7 Ocean Street Woollahra.

The Report provides the following:

- Construction noise criteria
- Criteria for the environmental noise emission from children playing at the child care facility, normal use of the synagogue and ancillary buildings
- Criteria for suitable internal noise levels and reverberation times
- Criteria for the environmental noise emission from the mechanical services plant
- Recommendations for the management of construction noise
- Assessment of the impact from the child care facility at nearby receivers
- Assessment of the impact from mechanical services plant at nearby receivers and

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- Recommendations for achieving appropriate internal noise levels and reverberation times.

Noise criteria are based on the recommendations of the Department of Environment, climate Change and Water (DECCW) and relevant Australian Standards and in accordance with the requirements of Woollahra Council.

*The Final issue of the report incorporates additional unattended noise monitoring data and attended noise monitoring data as requested by Council. Additional unattended ambient noise measurements were carried out at locations suggested by Woollahra Council for a period of one week. Attended fifteen minute ambient measurements were also carried out at locations suggested by Woollahra Council.*

## **Existing Noise Environment**

Background noise levels were monitored continuously from Monday 03 November to Monday 10 November 2008.

Following a review of the draft acoustic assessment report, Woollahra Council requested additional noise logging at two locations adjacent to the existing site. Background noise levels were therefore monitored at No 5 Ocean Street and at No 3 Woods Ave between Wednesday 25<sup>th</sup> November and Tuesday 01 December 2009.

## **Operational Noise Assessment:**

The potential noise impact at adjacent residential receivers resulting from operations following the proposed redevelopment has been assessed.

The impact of various different activities associated with use of the Synagogue has been assessed against the environmental noise criteria presented in Tables 11 and 13 of this report.

## **Environmental Noise Emissions Criteria:**

The DECCW provides guidelines for external noise emissions from industrial premises. These guidelines for industrial noise sources are provided in the NSW Industrial Noise Policy (INP, 2000) and will apply to all mechanical plant installed at the proposed site. The assessment procedure for industrial noise sources has two components;

- Controlling intrusive noise impacts in the short term for residences; and
- Maintaining noise level amenity for residences and other land uses.

The applicant has mistakenly written that Woollahra Council adopts a policy of background +5dB at the development site boundary.

## **Child Care External Play Area: Summary of Environmental Criteria**

Nelson Street - Day - RBL 44- IC 49 – AC – 55, Final Environmental Criteria 51  
Ocean Street – Day – RBL 51–IC 56 - AC – 55, Final Environmental Criteria 55  
Woods Ave - Day – RBL 43 –IC 48 - AC – 55, Final Environmental Criteria 50

## **RBL (Rating Background Level)**

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IC (Intrusive Criterion)  
AC (Amenity Criteria)

The Association of Australian Acoustical Consultants (AAAC) recommend that the criteria at receivers close to child care centres should be background L90+10Db(a) provided that outside play area does not exceed a total of 2 hours per day. This is considered a reasonable approach and has been accepted by the NSW Land and Environment Court previously.

### **Acoustic Assessment Report Conclusion**

The acoustic impacts relating to the development of the existing Emanuel Synagogue in Woollahra have been discussed and acoustic criteria and treatments for the development have been recommended.

There is likely to be no impact on noise levels at nearby receivers as a result of traffic using the site.

Construction noise criteria have been established and recommendations for minimising noise impact during construction have been made.

The noise impact at nearby receivers from normal use of the synagogue and ancillary buildings has been predicted and found to comply with the recommended criterion at the site boundary. A 3 dB(A) exceedance of the daytime criteria and 6 dB(A) exceedance of the evening criteria for receivers on Woods Ave is predicted during High Holy Days. As this is only likely to occur on up to four days a year the impact is considered to be negligible. It is advised that residences likely to be affected are kept informed of the dates of the High Holy Days.

Use of the existing classroom facilities results in a predicted 1 dB(A) exceedance of the Woods Ave daytime noise criteria. This assessment represents a “worst case” scenario and is therefore likely to exist only for short periods if at all.

Criteria for suitable internal noise levels and reverberation times have been established.

The noise impact at nearby receivers from the proposed elevated child care facility external play area has been predicted. The noise impact at all adjacent residential receivers is predicted to comply with the environmental noise criteria as presented in Table 13.

Noise arising from the mechanical services associated with the new Conservative Synagogues should be addressed during the detailed design phase. It is likely that standard noise control techniques, such as acoustic barriers, enclosures and louvers will be sufficient to mitigate any impact.

### **Recommendation**

The proposal is considered satisfactory subject to compliance with conditions.

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## ANNEXURE 9: REFERRAL RESPONSE – FIRE SAFETY

FILE NO DA 355/2009/1  
ADDRESS 7-9 Ocean Street WOOLLAHRA 2025  
PROPOSAL Partial demolition of the Synagogue, child care and ancillary buildings and the construction of a new Synagogue, new administration building with underground carpark for 15 cars, new ritual baths, new ancillary buildings, new child care centre for 80 children, new security walls and landscaping  
FROM Richard Smith - Fire Safety Officer  
TO Mr S Taylor

### Application documents

The following documentation provided by the applicant has been examined for this referral response:

- Architectural drawings by indyk architects drawings nos. DA1.02C, DA1.01C, DA1.03C, DA1.04C, DA1.05C, DA1.06C, DA1.07C, DA1.08C, DA1.09C, DA1.10C.

### BCA Classification

9b

### Rise in storeys

2

### Type of construction required

B

### Recommendation

That the following condition shall be applied to the proposal if approved;

### K.16 Building upgrade (Clause 94 of the Regulation)

*Council* considers pursuant to clause 94 of the *Regulation* that it is appropriate to require the existing building to be brought into total or partial conformity with the *BCA*. The *Construction Certificate* plans and specification required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation* must detail building upgrade works required by this condition.

The *Certifying Authority* must be satisfied that such work, to be implemented as part of the development, will upgrade the building to bring it into compliance with the following provisions of the *BCA* as in force at the date of the *Construction Certificate* application:

- e) That the main electrical switch room within the progressive synagogue shall be fully enclosed in construction having a minimum fire resistance level of 120/120/120 with all openings thereto protected by fire resistive doorsets having an FRL of -/120/30 complying with AS 1905.1.

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All switchboards which sustain the electrical supply for the emergency equipment required in the building shall be separated from non-emergency equipment switchgear by metal partitions.

All construction works carried out for this term shall be in accordance with the requirements of C2.13 of the BCA;

- f) That a system of emergency lighting shall be installed throughout the building to provide sufficient light in an emergency in accordance with the requirements of Part E4 of the BCA;
- g) That exit signs shall be installed above all required exit doors. Signs shall be illuminated at all times and generally be of sufficient number that direction of travel to all exits is clearly visible from any part of the major egress routes. Exit signs shall be installed to the standard expressed in Clauses E4.5, E4.6 and E4.8 of the BCA;

**Note:** The *Certifying Authority* issuing the *Construction Certificate* has no power to remove the requirement to upgrade the existing building as required by this condition. Where this condition specifies compliance with performance requirements of the *BCA* the *Certifying Authority*, subject to their level of accreditation, may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (deemed to satisfied) provisions of the *BCA* these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed under section 82A or amended under section 96 of the *Act*.

**Note:** This condition does not set aside the *Certifying Authorities* responsibility to ensure compliance with clause 143 of the *Regulation* in relation to Fire Protection and Structural Adequacy.

**Note:** AS 4655 *Guidelines for fire safety audits for buildings* (or any succeeding AS) should form the basis of any fire upgrade report.

Standard Condition: C10

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## ANNEXURE 10: REFERRAL RESPONSE - HERITAGE

FILE NO DA 355/2009/1  
ADDRESS 7-9 Ocean Street WOOLLAHRA 2025  
PROPOSAL Partial demolition of the Synagogue, child care and ancillary buildings and the construction of a new Synagogue, new administration building with underground carpark for 15 cars, new ritual baths, new ancillary buildings, new child care centre for 80 children, new security walls and landscaping  
FROM Susan O'Neill  
TO Mr S Taylor

### Application documents

The following documentation provided by the applicant has been examined for this referral response:

- Drawing Set by Indyk Architects numbered DA1.00C-DA1.13C dated 19.6.09
- Heritage Impact Statement/ Report by Weir Phillips dated June 2009
- Conservation Management Plan (Draft) dated June 2009

### Research

The following research was undertaken in the preparation of this assessment:

Site Inspection: February 2008

Interior inspected: Yes

Review of Council Files

Review of aerial photography.

### Statutory and policy documents

The following statutory and policy documents are relevant to the application:

- Woollahra LEP 1995
- Woollahra Heritage Conservation Area DCP

### Heritage status

Heritage item: Yes - 6 Woods Ave and Morton Bay Fig are heritage items

Vicinity of heritage item: Yes -1-6 and 10-19 Woods Ave, 14 Waimea Ave and 102-118 Wallis St

Heritage conservation area: Yes (Woollahra HCA)

State Heritage Register: No

Potential heritage item: Yes

### Significance of subject property to the heritage conservation area

The terrace house at 6 Woods Avenue and the Moreton Bay Fig Tree (incorrectly noted as Norfolk Island Pine schedule 3 WLEP) 7-10 Woods Avenue are listed as heritage items, schedule 3 WLEP. Temple Emanuel Synagogue is a contributory item within the Woollahra HCA. At its meeting on Monday 26 May 2008, Council resolved to prepare a draft LEP to include the property, Temple Emanuel, 7 Ocean Street, Woollahra as a heritage item, Schedule 3.

### Significance of the (proposed) heritage item



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The main focus of the site is the Synagogue, designed by Samuel Lipson and constructed in 1941. It is a two storey, face brick modern Inter-War Stripped Classical styled religious building, featuring a high parapeted façade offset by a tower feature. The Temple is set well back from the Ocean Street entry to create a dramatic backdrop and dominate the substantial forecourt it creates between the street and the main façade. Running along the northern edge of the forecourt and fronting Ocean Street is the former chapel, known as the Neuweg Synagogue, designed by Aaron Bolot and constructed in 1966. The Neuweg Synagogue, which is appropriately deferential to the Temple, is an accomplished work of architecture. The composition of the forecourt, the principal façade of the Temple and the Neuweg Synagogue is a striking feature of the place and immediately creates a sense of occasion when the site is entered from Ocean Street. Following the completion of the Temple, the forecourt was landscaped with trees, lawns and twin flagged paths led to through the forecourt towards the Temple. There were entrance gates of wrought iron designed to be in keeping with the Temple. By 1958, the Memorial Garden was completed including providing shade trees. The forecourt is now paved and used for parking, with a small garden running along the southern side of the Neuweg Synagogue and mature Cypress Pine Trees on the southern boundary.

The principal façade of the Temple is a dignified and dramatic modern composition, with a projecting tower feature on the southern side. The building is faced with salmon tinted bricks, with a slight texture, portion laid in stretcher bond and portion with two stretchers and a header in each course. At intervals in the latter, headers are embossed with symbolic patterns.] Placed on the front elevation and above the main entrance doors, are moulded decorative cement panels showing religious motifs in low relief. The floor level of the Synagogue is raised above ground level to create a podium, articulating the sacred realm of the platform, separate from the secular world below. The raised foyer is entered via a wide set of stairs, paved with sawn sandstone, which are the device used to mark the transition from the forecourt to the main entrance porch. The entry to the Synagogue is via three pairs of entry doors, constructed of Queensland maple, with a vertical panel of amber tinted, figured rolled glass offset in each door. Each pair of doors is deeply recessed between brick piers, splayed in plan, and the recess extends vertically to a reinforced concrete hood, with fanlights over each pair of doors. The vertical emphasis of the entry detail and the repetition of the three sets of doors denote the public nature of the building and the classically inspired composition of the entry is both striking and inviting.

The large vestibule is the full width of the porch and retains a high degree of original and early fabric. Details include the decorative fibrous plaster ceiling with its series of symbols in low relief which has been refurbished and fibrous plaster domes accommodating the light fittings. The walls are lined in a wainscot of Queensland walnut. The floor was originally covered in asphalte tiles in four colours, arranged in a geometrical pattern and these have since been replaced and the pattern reinterpreted in the new covering. Two sets of double doors access the two aisles of the auditorium. There is a stair to one side to the gallery and a passage with a minor entry from the side elevation now accessing a later addition. Male and female toilets are accessed from the vestibule, as is a front office used by the Rabbi and cloak room under the stair. Alterations were made to the Vestibule in 2002.

The auditorium is the focus of the building, with an internal floor to ceiling height of almost 30 feet (10m). It is a grand space, with three tall stained glass windows, each individually designed, glazed with figured, rolled glass on either side of the space and the Star of David within a square memorial window at the base. The auditorium was designed to seat 500 people in pews of Queensland Maple. The floor ramps slightly leading to the dias. The ark, pulpit, reading desk and altar are finished in New Guinea Walnut. Originally, the

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Rabbi's room and toilet were located behind the dias. However, a later addition to the Synagogue by Samuel Lipson changed the configuration behind the dias to create a flexible additional space that can be combined with the auditorium when required. The walls are rendered, with a fibrous plaster canopy in the ceiling to enhance the acoustics within the auditorium. The colour scheme within the auditorium incorporates the natural finish of the timbers and veneers. The walls and ceiling are painted in a light umber colour and the carpet is a deep blue. Natural light filters in through the stained glass and figured rolled glass windows. The artificial lighting of the interior incorporated concave glass discs which ensure the casting of an even light without shadows. The roof is framed with steel trusses and tiled.

The Synagogue was extended in 1954 to the east and south to a design by Samuel Lipson. The additions included enlarging the auditorium on the ground floor, with movable screens between the original auditorium and the extended space to enable the two spaces to be divided. When one large space is required, the dias is movable. The original choir balcony, over the dias, on the first floor was retained and new classrooms were constructed over the extended auditorium. The balcony over the original vestibule was altered and new stairs and ancillary rooms were added to the southern side of the original building and the vestibule tiles were replaced. The alterations and additions to the Synagogue, although designed by Samuel Lipson, are inferior to the original building. The materials are of lesser quality and the form is not as well articulated.

The siting and form of the Neuweg Synagogue is a particularly thoughtful and sensitive response to the layout of the site, defining the external forecourt space by providing its northern wall, proportions and focus on the principal façade of the 1941 Synagogue. The position of the Neuweg Synagogue and its original entry from Ocean Street responds to the established built alignment along the eastern side of Ocean Street, further emphasising the forecourt, as an opening in the built edge of the street.

The 1966 Neuweg Synagogue also uses Jewish symbols as decorative elements, including the intricately detailed modern stained glass windows. The building is constructed from parapeted textured face bricks, with four sets of double arched stain glass windows over precast cement panels (south only, as this façade faces the forecourt) between brick piers to the northern and southern facades. The brickwork extends to a brick on edge coping at the top of the parapet wall, concealing the speeddeck roofing on timber framing. The brickwork, awning and door details derive from the earlier Lipson work. The original entrance porch, no longer in use, fronts Ocean Street and has two feature panels of three inch sawn sandstone facing and a precast cement scroll over a set of timber entry doors. The auditorium, in quite a different style to the exterior of the Chapel, features precast cement columns supporting three arches, plywood panelling, Queensland maple pews and polished timber floors. The dias is carpeted and the ark, located on the eastern wall, is faced in plywood panelling between fixed plate glass.

The site is a battle axe block and extends to the south of the synagogue, behind three properties fronting Ocean Street, each containing Inter-War apartment blocks. This main body of the site is surrounded by properties and contains later buildings and extensions to the 1941 Synagogue building associated with the evolving services provided to the community, such as the kindergarten. The site extends eastward to Woods Avenue, which provides a pedestrian entry to the rear of the site and contains a semi-detached Victorian villa and an established Moreton Bay Fig tree.

To the north, the site extends past the rear of the Neuweg Synagogue, with a lot fronting Kilminster Lane and containing an extension to the 1941 Synagogue building, designed by Aaron Bolot and constructed in 1966 to accommodate administration, offices and meeting

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rooms. This facility is now inadequate for the needs of the Synagogue. The administration building was an expedient and less sympathetic addition to the 1941 Synagogue and is not architecturally significant. The kindergarten was constructed in 1954 to facilitate the continued use of Temple Emanuel by the community. It is not of contributory value to the identified heritage significance of the site.

### **Description of the Proposal**

The proposal is to demolish the Neuweg Synagogue, to demolish the minor additions to the south of the main Synagogue, to demolish the kindergarten building, to adaptively re-use the administration wing addition to the north of the Synagogue, to create a basement level within the existing footings beneath the foyer of the Synagogue and to partly demolish the Woods Ave terrace and add a new structure to the north of the terrace house. The proposal includes the construction of a new Conservative Synagogue and childcare facility over, a new community building within the existing forecourt, a basement carpark under the forecourt with entry from Ocean St and blast walls along the Ocean Street frontage, northern boundary adjacent to the proposed community building and Kilminster Lane.

### **Relevant Planning Controls**

Woollahra Local Environmental Plan 1995 Clause 2(1)g; 2(2)(g); Part 4 Clause 28;  
Woollahra Heritage Conservation Area DCP

### **Assessment of the proposal on the identified heritage significance of the site**

The overall proposal is an imaginative and creative response to the brief and of considerable merit. The proposal will allow the Emanuel Temple to continue to grow as a major cultural, religious and social centre for the Jewish community in the Eastern Suburbs.

The proposed organisation of site, with the existing foyer becoming the axis for the renewal meditation, the Progressive Synagogue and the Conservative Synagogue, provides clear orientation and focus for the site and enhances the importance of the foyer. The demolition of the Board Room and toilets to the south of the Synagogue is desirable as their removal provides an opportunity to directly connect the foyer to the Kiddush courtyard, allows light to penetrate the foyer and provides a strong sense of connection between the foyer and the Conservative Synagogue. It also allows the southern elevation of the Synagogue to be revealed.

The proposed Conservative Synagogue is an organic form, partly sunk into ground, which provides a distinctive foil to the formality of the Lipson designed Synagogue. It is appropriate, deferential and advantages the existing building by contrast. The Conservative Synagogue is potentially a grand, beautiful and dignified space.

The proposed adaptive re-use of the administrative wing is acceptable, as the wing was an expedient and unsympathetic addition to the original building. The glazed treatment of the corridor between the original Synagogue and the existing wing is to distinguish the original fabric of the Synagogue from the less proficient and somewhat intrusive addition and it will provide views through to the mediation garden and a sense of connection between the courtyards.

The proposed childcare building connects to the rear portion of the Synagogue and allows the existing upstairs classrooms to be incorporated into the kindergarten, which is a

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creative and clever use of the existing spaces. The form and position of the childcare building is appropriate to the Synagogue. The scheme enhances the southern elevation of the Synagogue, by removing later accretions and using the elevation as a backdrop to the play space on the roof of the Conservative Synagogue.

The basement level proposal for a ceremonial bathing space, lit by light penetrating the tower, is a poignant interpretation of the existing tower form, granting it a symbolic and powerful purpose, not originally envisaged by Samuel Lipson.

In summary, the scheme for the treatment of the Lipson designed Synagogue enhances the significant architecture, by removing intrusive fabric or reinterprets it in a way to distinguish it from the Synagogue. The proposal provides a sense of hierarchy and clear orientation and is to be commended.

The proposed treatment of the Woods Ave cottage is acceptable. The addition to the north of the cottage is in line with the party wall and gutter line over the entries of the row of terraces to acknowledge the existing rhythm of the projecting gables. The proposed materials allow it to read as a contemporary addition and are acceptable. The alterations to the rear portion of the terrace house are substantial, however the competition between the Moreton Bay Fig and the northern elevation of the terrace house has created an uncomfortable and tense interface and the architecture, given that it has been considerably altered and changed in the rear section of the terrace, should give way to the tree in this case. The opportunity of the proposal, to create a covered space within the second room with a strong relationship to the mighty roots of the Morton Bay Fig is an imaginative and playful solution.

While it is appreciated that the perceived safety risks have driven the programme for the Ocean Street forecourt treatment and that the only opportunity to provide basement parking is in this location, the proposed demolition of the Neuweg Synagogue is disappointing. The demolition of the Neuweg Synagogue is contrary to the intention of Council to prepare a draft LEP to list the site as a schedule 3 item.

While the contemporary security risks are potent and consuming, there may be technologies developed in the future that can guarantee the protection of the congregation without the use of physical barriers. The Neuweg Synagogue is lost forever once it is destroyed.

The Great Synagogue in Elizabeth Street, Sydney, designed by Thomas Rowe and constructed in 1874-8, is protected by bollards located within the public domain [this is yet to be confirmed by SCC]. The security measures taken at the Great Synagogue are an important comparison, as the building is listed on the State Heritage Register; it is constructed right on the street boundary and forms part of the street wall; it is at least equally if not more vulnerable to an attack. It does not have a blast wall and it has not been proposed for demolition. While the argument that the Great Synagogue is constructed using a concrete frame and non load bearing brickwork and is therefore less vulnerable than a load bearing brickwork building such as the Neuweg Synagogue, it does consist of elaborate decorative elements, internally and externally, including carved sandstone, timber, metalwork, tiling and stained glass. Given its prominence within the community and its location in the centre of Sydney, it must be considered a significant potential target.

The Woods Avenue terrace house will have staff areas located in close proximity to the street front, why is the risk of injury acceptable adjacent to Woods Avenue and not acceptable in the Neuweg Synagogue?

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The argument to demolish the building on the basis that it is not suitable for the liturgical purposes of the conservative congregation is irrelevant, as the proposed scheme includes a 'new renewal minyan' in the required horseshoe configuration.

The Neuweg Synagogue appears to have been used for a variety of purposes since its construction in 1962. It was built as a memorial, it has been used as a funerary, a wedding chapel, for Bah mitzvah ceremonies and so on. Could the Synagogue continue to be used for smaller ceremonies such as more modest bah mitzvahs? It is currently used approximately every third Saturday for Bah mitzvahs [stated during meeting with Temple Emanuel representatives]. The enormity of the grand space within the proposed Conservative Synagogue will be daunting for a small and discrete gathering and perhaps the Neuweg Synagogue could be considered as an appropriate location for small gatherings. If it is used only for small groups of people, the safety risk may be assessed as being acceptable, given that a smaller number of people are a less attractive target and must therefore pose a similar risk as the Woods Avenue terrace house staff areas.

The Neuweg Synagogue was built in memory of members of the congregation, George and Rosa Neuweg, using funds provided by Rosa Neuweg in her estate. Mrs Neuweg, who was concerned that once she died there would be no-one to remember either herself or her late husband, was assured by the Emanuel Synagogue representatives at the time, that *"her Temple Family who would most certainly remember her, by perpetuating her name and that of her husband's, by providing the Congregation, in her Will, a sufficient amount in her estate to erect a Memorial Synagogue."* [draft CMP p32] This aspect of the history of the Neuweg Synagogue gives it a particularly poignant and personal note and a certain sadness in destroying such a generous gesture from a member of the congregation. In addition, the Neuweg Synagogue was designed by a member of the congregation, Aaron Bolot, an architect well recognised by the architectural profession and the public as an eminent 20<sup>th</sup> century Australian architect.

Within Woollahra, there is only one building designed by Aaron Bolot listed as an item of heritage on the WLEP, Hillside Apartments, 412 Edgecliff Rd, Woollahra, designed in conjunction with E.C. Pitt in 1936. Bolot also designed the apartment block at 17 Wylde Street, Potts Point, built in 1948–1950 [heritage item, SCC LEP]. These two buildings are both considered landmark buildings. Bolot was important in the dissemination of new 'Modern' ideas in architecture and his other work includes:

- Rega Factory, Carrington Street, Marrickville (1927)
- Six cinemas in the 1930s (Ritz in Goulburn; Astra in Wyong; Randwick Ritz; Regal in Gosford; West's Theatre in Nowra and the Oatley Radio Theatre which became the Mecca
- Dorchester House, 149 Macquarie St, Sydney (1936)
- Ashdown, Elizabeth Bay Road, Elizabeth Bay (1938)
- Hensley Hall, Bellevue Road, Bellevue Hill (1939)
- Erina (Gosford) Drive-in (1957)
- The block of 30 flats at 6–8 Wyargine Street represented a considerable innovation in postwar housing, and Urban Co-op Multi Home Units were pioneers in providing a model solution to postwar housing shortages. Between c1949 and c1953, they built a number of home unit developments, of which Stancliff was the third, and initiated what has become an extremely common form of property ownership: the home unit, at first owned cooperatively and then after 1961, as strata titles.

The proposed Community Building is a substantial addition to the forecourt. While the existing Inter War flat buildings to the south of the site on Ocean Street and the Victorian

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terrace house to the north do provide a strong reinforcement of the street wall, the breaking of the wall with the organic form the proposed Community Building is an acceptable cue to the public nature of the use of the site. The Community Building will obscure views from the site entry towards the Progressive Synagogue and significantly impact on the formality and nature of the forecourt. The position of the Community Building has been primarily determined with reference to the security issues on the site. The proposed blast wall fronting Ocean St will result in a loss of significant views to Lipson's Synagogue from the street and potentially impact the amenity of the vicinity.

## **Conclusion**

The application is generally acceptable as it complies with the relevant statutory and policy documents. In order to have a satisfactory heritage impact the application requires amendment. The Neuweg Synagogue should be retained and the blast wall fronting Ocean Street deleted.

## **Recommendation**

Approval, following suggested amendments.

## **Standard Conditions**

BB2 Recording Heritage Items