

<b>JRPP Ref No.</b>	2010SYE036
<b>FILE No.</b>	DA 310/2010/1
<b>PROPERTY DETAILS</b>	40 Wentworth Rd and 47-49 Vacluse Rd, Vacluse
	<b>Site Area (m<sup>2</sup>):</b> 3368.7
	<b>Zoning:</b> Residential 2(a)
<b>PROPOSAL:</b>	The consolidation of the 3 sites, the demolition of the existing pool and alterations and additions to the existing dwelling-house at 40 Wentworth Rd; the total demolition of the existing dwelling-houses at 49 & 47 Vacluse Rd and the erection of a 2 storey module linked to the dwelling-house on 40 Wentworth Rd containing 13 off-street car parking spaces, guest accommodation, gymnasium and pool structure; landscaping and siteworks.
<b>TYPE OF CONSENT:</b>	Local development
<b>APPLICANT:</b>	Mr A Giannikos
<b>OWNER:</b>	Manoc Developments Pty Ltd
<b>DATE LODGED:</b>	30/06/2010 (Original scheme) 28/07/2010 (Amended scheme)
<b>AUTHOR:</b>	Mr D Booth
<b>CONSENT AUTHORITY</b>	Joint Regional Planning Panel (JRPP)

## 1. Preamble

The Joint Regional Planning Panel (JRPP) Sydney East Region is the consent authority for this development application as it is for a development that has a capital investment value of more than \$10 million.

The planning assessment report, prepared by Council's Senior Assessment Officer, David Booth, and forwarded to the JRPP is attached as Annexure 1. The recommendation is for a conditional approval. The application will be considered by the JRPP on **1 September 2010**.

In accordance with the NSW Government - Department of Planning, Procedures for the Operation of Joint Regional Planning Panels, this matter is referred to full Council to consider if it wishes to make a submission for the Panel to consider in its determination of the application.

## 2. Recommendation

That Council advises the Joint Regional Planning Panel (JRPP), that it raises no objection to the granting of development consent to Development Application No. 310/2010 for the consolidation of the 3 sites, the demolition of the existing pool and alterations and additions to the existing dwelling-house at 40 Wentworth Road, the total demolition of the existing dwelling-houses at 49 & 47 Vacluse Road and the erection of a 2 storey module linked to the dwelling-house on 40 Wentworth

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Road containing 13 off-street car parking spaces, gymnasium, guest accommodation and pool structure, landscaping and siteworks, subject to the conditions recommended in the officer's report.

## **Assessment Report and Recommendation**

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**DOES THE APPLICATION INVOLVE A SEPP 1 OBJECTION?** YES ☐ NO ☒

### **1. RECOMMENDATION**

The amended application is recommended for approval because it, as conditioned:

- Is considered to be satisfactory with all relevant planning policies including the provisions of WLEP 1995 & WRDCP 2003; and
- Will not have adverse effects on the local environment including the amenity of adjoining properties such that refusal is justified.

### **2. PREAMBLE/HISTORY**

DA 625/2009 for the consolidation of the 2 sites, the demolition of the existing pool and alterations and additions to the existing dwelling-house at 40 Wentworth Road, the total demolition of the existing dwelling-house at 49 Vacluse Road and the erection of a 2 storey module linked to the dwelling-house on 40 Wentworth Rd containing 7 off-street car parking spaces, gymnasium and pool structure, landscaping and siteworks was approved by the JRPP on 12 April 2010.

The subject proposal differs from the approved scheme as follows:

- 47 Vacluse Rd has been incorporated into the development sites;
- The demolition the existing house located on 47 Vacluse Rd;
- The extension of the 2 storey module fronting Vacluse Rd (western module) linked to the main dwelling-house on 40 Wentworth Rd 23 m to the south, increasing the number of off-street car parking spaces at ground floor level from 7 to 13, introducing 4.4 m wide one way in/one way out vehicular access/exit instead of the approved 6.4 m wide single two-way access/exit, increasing the guest accommodation at first floor level and reorientating/extending the pool structure and lawn area to the flat roof;
- The introduction of 2 m high by 23 m long masonry wet edge to the pool facing Vacluse Rd;
- The front setback of the 2 storey module fronting Vacluse Rd (western module) has been increased from 4.6-6 m to 6.5-10.8 m and a 7.4 m wide x 4.2-5 m deep indentation has been introduced to the front elevation;
- The reduction to the height of the masonry wall extending from the south-western corner of the structure western module to the southern boundary from 2.8 m to 1.8 m;
- The increase to the height of the metal picket front fence and vehicular entrance gates to the Vacluse Rd frontage from 1.5 m to 2.1 m,

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- Minor amendments to the approved alterations and additions to the existing dwelling-house located on 40 Wentworth Rd and;
  - Landscaping amendments.

Otherwise the proposal is essentially the same as DA625/2009 as approved.

The surrender of the consent DA 625/09 is required by **Condition C.16**.

## **2. DESCRIPTION OF PROPOSAL**

The JRPP is the consent authority for this development application as the application is for development that has a capital investment value of more than \$10 million.

The proposal was amended on 28 July 2010 in terms of correcting the notation on the drawings DA02-1104 and DA02-3001 from “no planting above RL 45.5” to “no planting above RL 44.5”.

The proposal, as amended, involves the consolidation of the 3 allotments and the following works:

- The addition of a second storey containing 2 bedrooms to the eastern wing of the existing dwelling-house at 40 Wentworth Rd;
- The demolition of the existing swimming pool and internal courtyard located between the eastern and western wings of the existing dwelling-house at 40 Wentworth Rd and the erection of a 2 storey in-fill addition consisting of an excavated basement level containing a cinema and a ground floor level containing living areas with a 6.2 m high ceiling and solar panels/skylights on the flat roof;
- A 3 storey southern extension to the existing dwelling-house at 40 Wentworth Rd incorporating a kitchen at basement level, TV room at ground floor level and rumpus room and bedroom at first floor level;
- Other minor internal and external alterations and additions including a southern extension to the study at ground floor level and a new timber/synthetic membrane roof with skylights to the existing 2 storey western wing of the existing dwelling-house at 40 Wentworth Rd;
- The widening of the existing driveway to the Wentworth Rd frontage from 2-3.3 m to 4 m and the construction of a second driveway in order to provide drive-in and drive-out in a forward direction vehicular access via a proposed semicircular vehicular forecourt;
- Two new 1.7 m high metal picket vehicular entry gates, a 1.7 m high 8.1 m long section of rendered masonry front fence between the 2 vehicular entry gates and the 1.7 m high masonry infilling of 2 existing pedestrian entrances to the Wentworth Rd frontage;
- The erection of a 2.4 m high metal security fence 1.2-1.8 m in from and parallel to the Wentworth Rd frontage;
- The total demolition of the existing dwelling-houses and garages at 47 & 49 Vacluse Rd;
- The erection of a 2 storey module fronting Vacluse Rd (western module) linked to the main dwelling-house on 40 Wentworth Rd. This module/pavilion contains 13 off-street car parking spaces at ground floor level, a gymnasium, staff and guest bedrooms at first floor level and a pool/sap structure and lawn area to the flat roof;

- The construction of a new 2.1 m high metal picket front fence and vehicular entrance gates to the Vacluse Rd frontage;
- Landscaping works including the demolition of the existing water feature and the construction of a new retaining wall to the northern section of the property, the relocation/encasement of an existing rock outcrop from the central section of the site and landscaping alterations to the perimeter of the property.

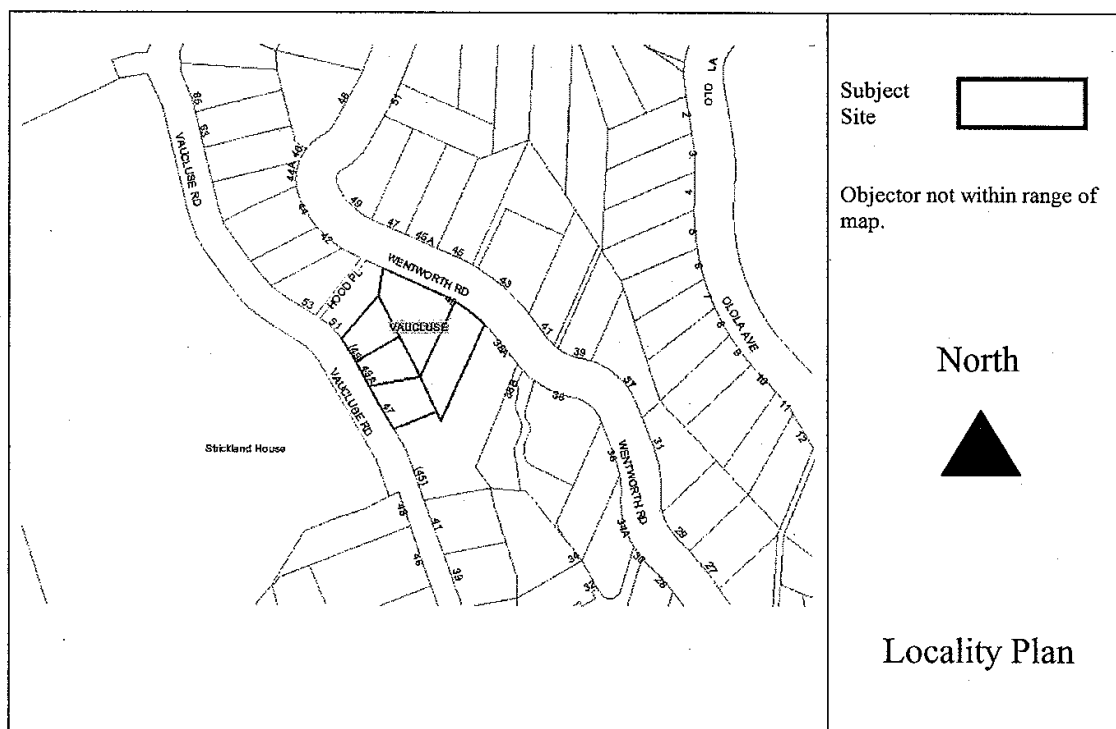
### 3. SUMMARY

Reasons for report	Issues	Submissions
<ul style="list-style-type: none"> <li>• To assist the JRPP in determining the development application, and</li> <li>• To permit the DCC to decide if the council will make a submission to the Regional Panel.</li> <li>• This is because under our current delegations the development application would have otherwise been referred to the DCC for determination as it does not satisfy the criteria for determination under staff delegation and involves works costing in excess of \$3 million.</li> </ul>	<ul style="list-style-type: none"> <li>• Objector's concerns.</li> <li>• Floor space ratio non-compliance.</li> <li>• Boundary setback non-compliances.</li> <li>• Number of storeys non-compliance.</li> <li>• Garage frontage width non-compliance.</li> <li>• Front fence height non-compliances.</li> <li>• Building footprint non-compliance.</li> <li>• Siting and height of swimming pool non-compliances.</li> <li>• Driveway width non-compliance.</li> </ul>	One.

### 4. ESTIMATED COST OF WORKS

Council adopted (DCC 6 June 2005) administrative changes for determining DA fees based on the estimated cost of work. Where the estimated cost of work is greater than \$750,000 or where the applicant's estimate is considered to be neither genuine or accurate, the applicant has to provide a Quantity Surveyor's report. The capital investment value of the development (as provided by the applicant) is \$12,961,705.20. The application was accompanied by an elemental cost plan, prepared by Tzannes Associates dated 28/6/2010.

### 5. LOCALITY PLAN

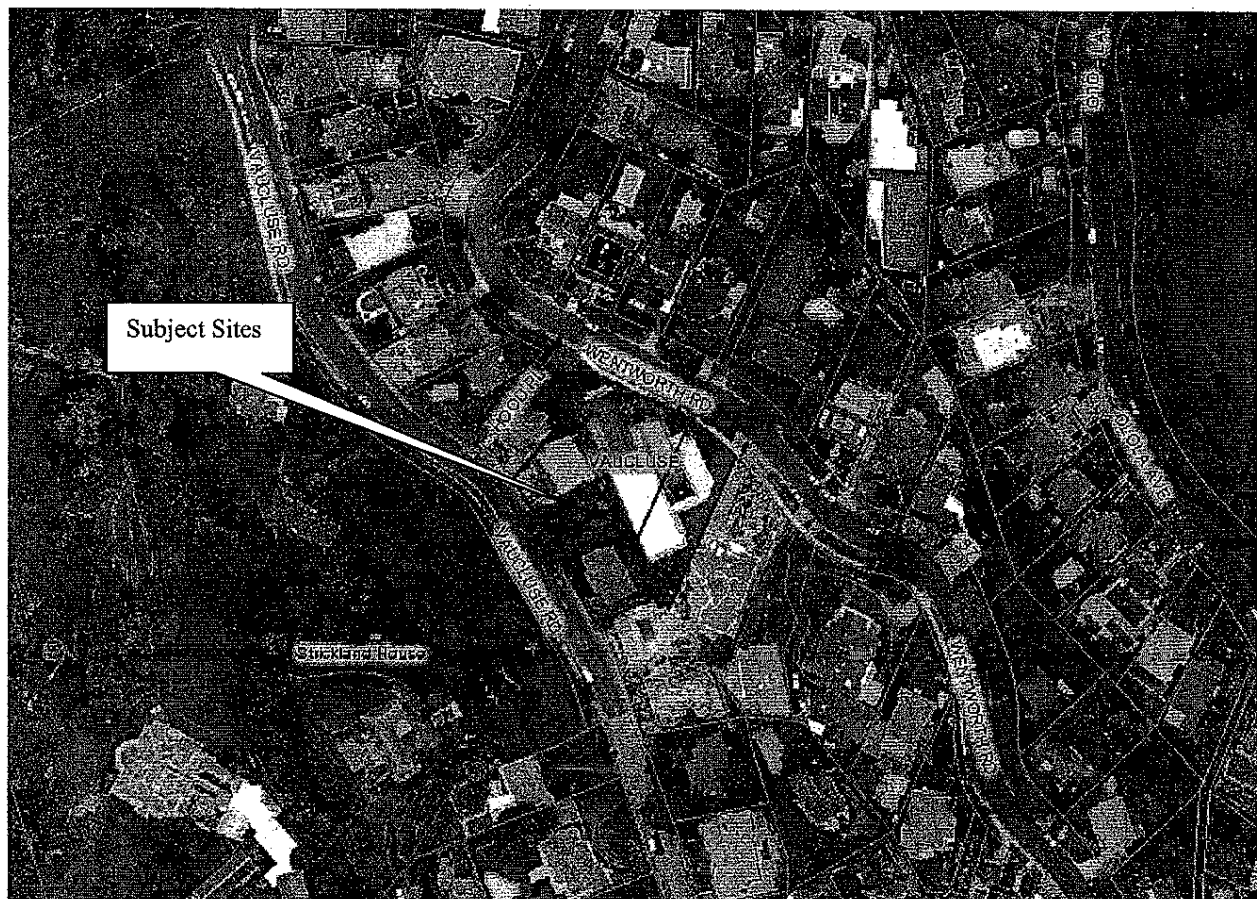


## 6. REFERRALS

Internal Referral Officer	Comment
Development Engineer	Council's Team Leader-Development Engineer has determined that the proposal is satisfactory, subject to conditions (see <b>Annexure 2</b> ).
Tree and Landscape Officer	Council's Tree and Landscape Officer has determined that the proposal is satisfactory subject to conditions (see <b>Annexure 3</b> ).
Heritage Officer	Council's Heritage Officer has determined that the proposal is satisfactory, including the archival recordings of existing buildings at 47 & 49 Vacluse Rd and otherwise has maintained the comments made in relation to DA625/09 (see <b>Annexure 4</b> ).

## 7. DESCRIPTION OF SITE OF LOCALITY

The combined sites have a 58.8 m eastern frontage to Wentworth Rd, a 51.8 m western frontage to Vacluse Rd, a northern side boundary 53.8 m in length and a southern side boundary 43 m in length. The land falls approximately 13 m from the eastern Wentworth Rd frontage to the western Vacluse Rd frontage. The 47 & 49 Vacluse Rd allotments are currently occupied by 2 storey dwelling-houses. The 40 Wentworth Rd allotment is currently occupied by 1-2 storey dwelling-house and swimming pool. Surrounding development to the north, south and east consists of 1-3 storey dwelling-houses. Strickland House and grounds are located to the west.



## ENVIRONMENTAL ASSESSMENT UNDER S.79C

The relevant matters for consideration under section 79C of the *Environmental Planning and Assessment Act 1979* are assessed under the following headings:

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## 8. STATE/REGIONAL INSTRUMENTS AND LEGISLATION

### 8.1 SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate A87055 committing to environmental sustainability measures. These requirements have been imposed by **Conditions C.3, H.3 & I.2** as required by clause 97A of the *Environmental Planning & Assessment Regulation* 2000.

### 8.2 SEPP 55–Remediation of Land

Under Clause 7 (1) (a) of SEPP 55-Remediation of Land, consideration has been given as to whether the land is contaminated. There is no evidence or indication that the subject land is contaminated and therefore no further consideration under Clause 7(1)(b) and (c) of SEPP 55 is deemed necessary.

### 8.3 SREP (Sydney Harbour Catchment) 2005 and accompanying DCP

The provisions of Clauses 25 and 26 of this instrument and the accompanying DCP for SREP (Sydney Harbour Catchment) 2005 require Council to consider the visual impact that a development proposal will have upon Sydney Harbour and adjoining foreshore areas and the likely impact upon available views to and from Sydney Harbour. The proposal will not have any significant adverse visual impact upon Sydney Harbour and adjoining foreshore areas or any significant adverse impact upon views of Sydney Harbour from private properties.

### 8.4 Section 94A Contributions

The Woollahra Section 94A Contributions Plan 2005 is applicable. In accordance with Schedule 1, a 1% levy (of the total cost of works) applies. With a cost of works of \$12,961,705.20 a payment of \$129,617 is required by **Condition C.2**.

## 9. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 1995

### 9.1 Aims and objectives of WLEP 1995 and zone (Clause 8(5))

The proposal is permissible and as conditioned, is consistent with the aims and objectives of the LEP and the relevant objectives of the Residential 2 (a) zone.

### 9.2 Statutory compliance table

	Existing	Proposed new works	Control	Complies
Maximum Overall Height (m)	7.2	9.5	9.5	YES

### 9.3 Clause 12 Height

The amended proposal involves a maximum height of 9.5 m thereby achieving compliance with Council's 9.5 m height standard. The proposal, as conditioned, is considered to be satisfactory with regard to the objectives underlying Council's height standard.

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## 9.4 Clause 18 Excavation

The provisions of Clause 18 require Council, when considering a development application involving excavation, to have regard to how that excavation may temporarily or permanently affect:

- (a) *The amenity of the neighbourhood by way of noise, vibration, dust or other similar circumstances related to the excavation process.*
- (b) *Public safety.*
- (c) *Vehicle and pedestrian movements.*
- (d) *The heritage significance of any heritage item that may be affected by the proposed excavation and its setting.*
- (e) *Natural landforms and vegetation.*
- (f) *Natural water run-off patterns.*

The proposed western module (fronting Vacluse Rd) involves excavation to a depth of 0-8.8 m over an area of approximately 800 m<sup>2</sup>; a volume of approximately 3200 m<sup>3</sup>.

The proposed subterranean stair and lift access between the western module and the main dwelling-house involves excavation to a depth of 10.6-11.8 m over an area of approximately 60 m<sup>2</sup>; a volume of approximately 560 m<sup>3</sup>.

The proposed subterranean basement level to the main dwelling-house involves excavation to a depth of 5 m over an area of approximately 240 m<sup>2</sup>; a volume of approximately 1200 m<sup>3</sup> minus the existing pool with a volume of approximately 175 m<sup>3</sup>; a net volume of 1025 m<sup>3</sup>.

All of the proposed excavation is sited more than 1.5 m from the boundaries of the property in accordance with performance criterion 5.2.16 of Woollahra RDCP 2003.

Having regard to the above-mentioned heads of consideration, the following comments are made in relation to the impact of the proposed excavation upon the local environment:

- (a) *The amenity of the neighbourhood by way of noise, vibration, dust or other similar circumstances related to the excavation process.*

Subject to **Conditions C.7, C.10, D.2-D.6, E.8-E.15, E.20 & E.22** requiring a construction management plan, adequate sediment/soil management, dust mitigation, limiting the times and duration of machine excavation, requiring the preparation of dilapidation reports, compliance with recommendations of the geotechnical/ hydrogeological report submitted with the development application and the implementation of hydrogeological / geotechnical and vibration monitoring programs requiring the adequate supervision/ monitoring of the excavation process by a qualified and practicing geotechnical engineer, the proposal is considered be satisfactory with regard to these issues.

Refer to **Annexure 2** for the geotechnical and hydrogeological comments by Council's Development Engineer.

- (b) *Public safety.*
- (c) *Vehicle and pedestrian movements.*

Issues relating to public safety and pedestrian movements during the excavation phase are inter-related and are addressed by **Conditions D.3, D.4, D.6, E.10, E.9 & E.12** requiring security fencing, a construction management plan, a works (construction) zone, a safe pedestrian route and the structural support of neighbouring buildings and public places during excavation.

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- (d) *The heritage significance of any heritage item that may be affected by the proposed excavation and its setting.*

The proposed excavation will not affect any heritage item or its setting.

- (e) *Natural landforms and vegetation.*

Council's Tree and Landscape Officer considers the proposal to be satisfactory in terms of excavation in the vicinity of significant trees subject to **Conditions B.2-B.4, E.1, E.2 & E.4-E.6**.

Refer to **Annexure 3** for comments by Council's Tree and Landscape Officer.

The proposed excavation will not significantly alter the existing landform and does not adversely affect any significant vegetation.

- (f) *Natural water run-off patterns.*

Council's Development Engineer has assessed the proposal and considers the proposed excavation to be satisfactory in terms of hydrogeological issues, subject to **Conditions C.10 & C.12**.

Subject to the above-mentioned conditions, the extent of the excavation associated with the proposal is considered to be satisfactory with regard to the provision of Clause 18 of WLEP 1995.

## **9.5 Clause 19 HFSPA**

Clause 19 (2) of Woollahra LEP 1995 requires Council to take into consideration the environmental impact of a development upon Sydney Harbour and adjoining foreshore areas and to the impact upon the existing landform and topography. The proposal will not have any significant adverse visual impact upon Sydney Harbour and adjoining foreshore areas or views. The proposed impact upon existing landform is considered to be satisfactory.

## **9.6 Clause 25 Water, wastewater and stormwater**

Clause 25 of Woollahra LEP 1995 requires Council to take into consideration the provision of adequate stormwater drainage and the provision of adequate water and sewerage services. The proposal has been assessed against the provisions of Clause 25 of Woollahra LEP 1995 and is considered to be satisfactory, subject to **Condition C.12** in relation to stormwater drainage. Refer to **Annexure 2** for site drainage comments by Council's Development Engineer.

## **9.7 Clause 25D Acid Sulfate Soils**

The subject site is within the Class 5 Acid Sulphate Soil area identified in the Planning NSW Acid Sulphate Soil Risk Map. However, the subject works are not likely to lower the water table below 1 m AHD on any land within 500 m with a 1, 2, 3 or 4 land classification and therefore, there is no issue of acid sulphate affectation in this instance.

## **9.8 Clauses 26 & 27 Heritage Items and Development in the vicinity of heritage items**

Clauses 26 & 27 of Woollahra LEP 1995 require Council to take into consideration the likely effect of a development proposal upon the heritage significance of any heritage item located on the subject sites and any heritage item in the vicinity.

Whilst there are no formal heritage items on the subject land, the existing dwelling-house on 40 Wentworth Rd is considered to be a potential heritage item by Council's consultant Heritage



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Officer. The heritage listed Strickland House is in the vicinity of the subject development; on the opposite side of Vaocluse Rd.

Council's Heritage Officer considers the archival recordings of the existing dwelling-houses at 47 & 49 Vaocluse Rd to be satisfactory and no objection raised in relation to the demolition of the existing dwelling-house 47 Vaocluse Rd. Otherwise, the following comments that were made in relation to DA625/2009 are maintained in relation to the subject development application:

***Impact of proposed development on a heritage item in the vicinity.***

*The proposed development will not have any impact upon the significance of Strickland House.*

***Impact of proposed development on the potential heritage item***

*The design process has been exemplary in this instance. Heritage consultants were engaged to assess the significance of the building and then worked with the architects in design workshops. The process has been collaborative and has lead to the best possible outcome for the significance of the building in the context of the client's requirements.*

***Impact upon key areas of significance to the property***

- ***Views from the Harbour***

*The landmark value of the property will be retained. The original building will still be the most prominent building on the site. The additions sit below and behind the principal wing of the original building. A conservatory constructed of steel and glass with timber louvers is proposed to be inserted into the courtyard area on the footprint of the original pool. The white masonry surface, dark recessed openings and overhanging flat roof make the original building a strong visual element when viewed from the harbour and Vaocluse Road. The location and contrasting materials of the glass and steel conservatory behind the main building although visible at the northern end will be recessive enough to ensure the original building is dominant and retains its landmark value.*

- ***Garden and Setting***

*The lawn has been increased to extend over the roof of the car parking structure on the lot known as 49 Vaocluse Road so that it will extend the garden above at the same level. The continuity and enlargement of the landscaped open space will enhance the formality of the classical modern building. The open space will enable the north west aspect of the building to viewed across the lawn thus improving the setting of the building. The new pool is aligned with the entry which emphasises the entrance axis of the original design by Bell. **There are two planter boxes believed to be designed by Bell flanking the entry which emphasise its symmetry and should therefore be retained.***

- ***Courtyard***

*The original courtyard between the eastern wing and the western wing of the original building is a highly significant space. It was designed as a formal outdoor space which Phillip Goad describes as "the largest and most impressive room in the house". The continuous colonnade around the edges of the space is an essential feature of the original Bell design. The views across the space and out to the harbour beyond are also important. The subject development application proposes an insertion of a new two storey building into this space with a basement under. The new building is proposed to be a lightweight glass and steel structure separated from the colonnade by a skylight running the full length of the perimeter where it joins the*

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*original building. The roof is flat and aligns with the parapet of the original building to the east and the balustrade to the west. The new building creates a bridge which connects the first floor addition to the eastern building. The length of the inserted building is based upon the pool location and was recommended in the design workshop by Phillip Goad.*

- *Arches*

*A positive outcome of the design would be the retention of the arches. The arches have been recognised by the experts as an essential component of the overall design and their loss would have degraded the significance of the building. Through advice provided by the heritage expert the architect was encouraged to keep the arches instead of altering them by squaring off the opening. The architect and client should be congratulated on accepting this approach.*

- *Addition to Eastern Building*

*A first floor is proposed to be added to the top of the smaller eastern wing. This wing is currently only just visible from Wentworth Street. The proposed addition retains the parapet and sets the new wall behind. It has a flat roof which has been kept as low as possible and aligns with the original western wing roof and the proposed courtyard roof. The proposed building is kept neutral and is clearly distinguishable over the eastern wing.*

- *Materials and appearance*

*The new work proposes a very different materials palette than the original building. The original building is white bagged masonry with full height openings rather than holes cut out for windows and doors. The flat roof has wide boxed eaves with a dark timber soffit and masonry parapets and balustrades. The appearance is classical with a modernist interpretation; uniquely Bell's style which he practised consistently throughout his career. To make a contemporary addition to such a precise architectural style has to therefore be both architecturally responsive and of such excellence in contemporary expression to be worthy of the original. The choice of materials and structure by Tzannes Architects expresses the new building within the context of the old by retaining its formality, symmetry and order. The materials chosen for the conservatory are steel and glass with retractable timber shutters on the exterior. The choice of timber shutters rather than steel was at the advice of the heritage expert who suggested that timber would suit the texture of the bagged brick wall better than the slickness of metal. The use of glass enables the views to the harbour to be retained albeit the views will be experienced differently.*

- *Internal Configuration*

*Although there is a considerable amount of internal demolition the end result retains the significance of the building. In particular moving the lift and removing the change of levels at this location opens up the axis of the entry which is a more traditional design treatment by Bell. The demolition on the upper level removes all internal walls but this is balanced by the retention of all the external walls in their current configuration with the exception of infilling bathroom and closet openings and replacing one blade whilst removing another. The infill of openings has been designed so that it is set in and the original opening will be evident. These infill's face into the courtyard and are therefore not on the significant elevation. To compensate for removing one blade wall on the significant west elevation an existing blade will be reinstated. The retention of the exterior appearance of the building is a very positive outcome.*

## Demolition of 49 Vacluse Rd

The property at 49 Vacluse Rd remained undeveloped until the late 20<sup>th</sup> century. In the 1980's the existing building was constructed and it was the first building on the site. The property is not a fine representative example of a particular style of domestic architecture. It has no value in relation to the historical development of the area and no known association with persons or events of significance. The property has no special association or meaning for a contemporary group of people. The property therefore has low heritage value. It does not warrant protection as a heritage item and demolition is therefore acceptable.

## Conclusion

- The application is acceptable as it complies with all the relevant statutory and policy documents and would have a satisfactory heritage impact.
- The design development process used in this application is an exemplar for working relationships between heritage consultants and architects and is considered to be a best practice example.
- The application exhibits excellence in design and is expected to produce a high-quality end result for the building originally designed by Bell in the context of the client's needs.

## Recommendation

1. Approval, subject to the two planter boxes at the entry must be retained (see **Condition C.1b**).
2. The archival recording of existing potential heritage item (40 Wentworth Rd) (see **Condition B.6**).

The 2 “planter boxes” are actually large movable pots.

It is recommended that the 2 m high by 23 m long masonry wet edge to the pool to the roof of the western module facing Vacluse Rd, be required to be faced in stone in order to mitigate the visual impact of the structure upon the locality (see **Condition C.1c**).

The proposal, as conditioned, is considered to be satisfactory with regard to the provisions of clauses 26 & 27 of Woollahra LEP 1995.

## 10.1 Numeric Compliance table - Woollahra RDCP 2003

Site Area (3368.7 m <sup>2</sup> )	Existing	DA625/09	Proposed	Control	Complies
Boundary Setbacks-Main Dwelling-house (m) Front-Wentworth Rd (east) Side (north) Side (south)	4.6-16 10.7-18.8 2.5-11.6	2-10 10.3-14.8 0-7.6	2-10 10.3-14.8 0-7.6	20.7 2.5-3.5 2.5-3.4	NO* YES NO (Partial)*
Boundary Setbacks-Western Module (m) Front-Vacluse Rd (west) Side (north) Side (south)	8.7-11 0.2-2.4 1.6	4.6-6 0-4 0-5	6.5-10.8 0-4 0-4.6	6.4 2.5-3.9 2.5-4.5	YES NO (Partial)* NO (Partial)*
Building Footprint	26% (739.7 m <sup>2</sup> )	51% (1449 m <sup>2</sup> )	49% (1653 m <sup>2</sup> )	30% (1010.6 m <sup>2</sup> )	NO*

Site Area (3368.7 m <sup>2</sup> )	Existing	DA625/09	Proposed	Control	Complies
Maximum Number of Storeys – Dwelling	1-2	1-3	1-3	2	NO*
Floor Space Ratio	0.44:1 (1240 m <sup>2</sup> )	0.99:1 (2818.6 m <sup>2</sup> )	0.93:1 (3140 m <sup>2</sup> )	0.55:1 (1853 m <sup>2</sup> )	NO*
Solar Access to Open Space of Adjacent Properties (Hrs on 21 June)	>50% (or 35m <sup>2</sup> ) for 2 hours	>50% (or 35m <sup>2</sup> ) for 2 hours	>50% (or 35m <sup>2</sup> ) for 2 hours	>50% (or 35m <sup>2</sup> ) for 2 hours	YES
Solar Access to Nth Facing Living Areas of Adjacent Properties (Hrs on 21 June)	>3 hours	>3 hours	>3 hours	>3 hours	YES
Excavation Piling and Subsurface Wall Setback (m)	N/A	>1.5	>1.5	1.5	YES
Deep Soil Landscape area	>38% (>1079 m <sup>2</sup> )	38% (1079 m <sup>2</sup> )	37.1% (1249.5 m <sup>2</sup> )	35% (1179 m <sup>2</sup> )	YES
Deep Soil Landscaping – Front Setback	> 40%	> 40%	> 40%	40%	YES
Car Parking Spaces – Dwellings	4	7	13	2	YES
Car Parking Excavation	N/A	Within Building Footprint	Within Building Footprint	Within Building Footprint	YES
Location of Garages and Car Parking Structures	Behind Front Setback	Behind Front Setback	Behind Front Setback	Behind Front Setback	YES
Garage Frontage Width	N/A	81.6% (22 m)	86% (44.6 m)	30% (13.4 m)	NO*
Private Open Space Per Dwelling-At Ground Level	> 35 m <sup>2</sup> > > 16 m <sup>2</sup>	> 35 m <sup>2</sup> > > 16 m <sup>2</sup>	> 35 m <sup>2</sup> > > 16 m <sup>2</sup>	Area-35 m <sup>2</sup> Principal Area-16 m <sup>2</sup>	YES
Front Fence Height (m)	1.7	1.5-2.4	1.7-2.4	1.2-1.5	NO (Partial)*
Side Fence Height (m)	0.3-3.2	1-1.6	1-1.6	1.8	YES
Siting of swimming pool	Central section of site	Roof to western module	Roof to western module	Rear section of site	NO*
Swimming Pool Height Above Ground Level	0	8.4 m	8.4 m	0.3m	NO*
Access Driveway Width	3.3-5.9m	3.5-6.4m	3.5-4.4 m	3.5m – 6m	YES

\* Non-compliance approved under DA625/09

### Site Analysis Performance Criteria

Part 3 of Council's RDCP 2003, requires adequate site analysis documentation for development applications. The development proposal is considered to be satisfactory in this regard.

Performance criterion 3.2.1 requires development to fit into the surrounding environment and pattern of development by responding to surrounding neighbourhood character and streetscape. It is recommended that the 2 m high by 23 m long masonry wet edge to the pool to the roof of the western module facing Vacluse Rd, be required to be faced in stone in order to mitigate the visual impact of the structure upon the locality (see **Condition C.1c**). The proposal, as conditioned, is considered to be satisfactory in this regard.

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## Desired future precinct character objectives and performance criteria

The future character objectives for the Vaucluse West Precinct are:

- O 4.13.1 To retain the scenic qualities provided by the dramatic topography, natural vegetation and low scale built elements that provide an attractive setting upon Sydney Harbour;*
- O 4.13.2 To reinforce the precinct's landscape setting by minimising alterations to the landform and preserving the existing tree canopy;*
- O 4.13.3 To maintain mature street trees, grassed verges and garden plantings;*
- O 4.13.4 To protect important views from the public spaces of the precinct to the harbour, the city skyline and to the surrounding districts;*
- O 4.13.5 To maintain the evolution of low rise residential building styles through the introduction of good contemporary buildings.*

The proposal involves the following non-compliances with the relevant performance criteria stipulated under Part 4.14 of WRDCP 2003:

### ***Building Height-storeys***

Performance criterion 4.13.5.3 stipulates a maximum height of 2 storeys for the precinct. Where the landform of a site falls more than 2 m from the street to the rear of the property, an additional basement storey may be permitted as long as all other RDCP controls are met.

*The definition of storey means any separate level within a building (not including levels below existing ground level provided for car parking or storage, or both, that protrude less than 1.2m above existing ground level, or an attic level). In determining the number of storeys which a building contains, the number shall be deemed to be the maximum number of storeys, floors or levels of a building which may be intersected by the same vertical line, not being a line which passes through any wall of the building.*

The proposed southern extension incorporating a kitchen at basement level, rumpus room at ground floor level and rumpus room and bedroom at first floor level constitutes 3 storeys. Whilst the land does fall by more than 2 m over its length (approximately 13 m), the subject southern extension occurs where the fall is less than 2 m and in any case, the proposed dwelling-house does not comply with all of Council's RDCP controls. Accordingly, the proposed third storey southern extension is non-compliant.

However, this area of non-compliance is considered to be acceptable in this instance for the following reasons:

- The basement level is excavated wholly below ground level and as such, the subject proposed southern extension will present a maximum of 2 storeys to the adjoining property to the south (38A Wentworth Rd) and to the Wentworth Rd streetscape, which is compatible with the scale of the 2-3 storey adjoining development at 38A Wentworth Rd;
- Whilst the third storey will cause additional overshadowing to the adjoining property to the south (38A Wentworth Rd), solar access is maintained in accordance with Council's requirements;

- The third storey is considered to be acceptable in terms of privacy and view impacts upon surrounding residential properties; and
- The extension involves a maximum height of 7.2 m in compliance with Council's 9.5 m height standard.

### ***Proportion of the site frontage occupied by car parking structures***

Performance criterion 4.13.4 limits the proportion of the site frontage occupied by car parking structures to 30% (13.4 m). The proposed garage to the Vaocluse Rd frontage occupies 86% (44.6 m) of the frontage. The 44.6 m garage width is considered to be acceptable in this instance as it is designed as the ground floor level component of a 2 storey residential structure of acceptable overall design, the front elevation of which is adequately articulated and modulated via a 7.4 m wide x 4.2-5 m deep indentation that has been introduced to the front elevation and will be adequately screened from Vaocluse Rd by a series of large trees.

### ***Front fence height***

Performance criterion 4.13.5.5 limits the height of solid front fences to 1.2 m and front fences that are 50% transparent to a height of 1.5 m. The proposal involves the following non-compliances:

- Two new 1.7 m high metal picket vehicular entry gates to the Wentworth Rd frontage;
- A 1.7 m high 8.1 m long section of rendered masonry front fence between the 2 vehicular entry gates to the Wentworth Rd frontage;
- The 1.7 m high masonry infilling of 2 existing pedestrian entrances to the Wentworth Rd frontage;
- The erection of a 2.4 m high metal security fence 1.2-1.8 m in from and parallel to the Wentworth Rd frontage; and
- The 2.1 m high metal picket front fencing and vehicular entrance gates to the Vaocluse Rd frontage.

The non-compliances are considered to be acceptable in this instance as the masonry components are consistent with the existing front fence, the metal picket vehicular gates, front fence to Vaocluse Rd and the security fence to Wentworth Rd are of adequate transparency and landscaping to both street frontages will provide adequate screening of the structures.

### ***Northern (side) boundary setbacks***

Performance criterion 4.13.3 stipulates a minimum side boundary setback of 2.5 m for development up to 5.5 m in height on an allotment with a frontage width of 18 m or greater. This minimum setback requirement then increases by 0.5 m for every 1 m of height above 5.5 m.

The northern elevation of the proposed western module is setback 2.5-4 m from the northern side boundary which complies with Council's minimum requirement of 2.5-3.9 m. However, the proposed 2.4 high retaining wall with 1.6 m high masonry screening structure above (total height of 4 m) extending from the north-western corner of the structure to the northern boundary (nil setback) is non-compliant with Council's setback requirement of 2.5 m.

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The non-compliance is considered to be acceptable in this instance as the 4 m high masonry structure is set back 6.8 m from the Vacluse Rd alignment and replaces a masonry double garage structure that extends to both the northern and Vacluse Rd alignments.

The visual amenity of the front section of the adjoining property to the north (51 Vacluse Rd) will benefit from much reduced bulk and scale of the proposed wall when compared with the northern elevation of the existing garage which adjoins the entire length of the front section of the adjoining property.

With regard to streetscape impact, the 6.8 m front setback of the structure is a substantial improvement over the existing nil setback of the garage structure. Further, a Brush Box tree proposed to the north-western corner of the site will adequately screen the structure from Vacluse Rd.

### ***Southern (side) boundary setback***

Performance criterion 4.13.3 stipulates a minimum side boundary setback of 2.5 m for development up to 5.5 m in height on an allotment with a frontage width of 18 m or greater. This minimum setback requirement then increases by 0.5 m for every 1 m of height above 5.5 m.

### ***Western module***

The southern elevation of the proposed western module is setback 4.6 m from the southern side boundary which complies with Council's minimum requirement of 2.5-4.5 m. However, the proposed 1.8 m high masonry wall extending from the south-western corner of the structure to the southern boundary (nil setback) is non-compliant with Council's setback requirement of 2.5 m.

The non-compliance is considered to be acceptable in this instance as the 1.8 m high masonry structure is set back 7.8 m from the Vacluse Rd alignment and will be screened from the streetscape by landscaping. The visual amenity of the adjoining property to the south (45 Vacluse Rd) will not be significantly affected as it is the height of standard side boundary fencing.

### ***Main dwelling-house***

The southern elevation of the main dwelling-house is sited 1-7.6 m from the southern side boundary which is partially non-compliant with Council's minimum requirement of 2.5-4.5 m. The areas of non-compliance relate to:

- A 2 m wide by 7.4 m high masonry fin wall and the southern projecting corner to the W.C at ground floor level;
- A 1.5 m wide by 7.4 m high masonry wall and the southern projecting corner to the rumpus room at ground floor level; and
- The first floor level component of the proposed southern extension and the upper addition to the eastern wing.

Further, new external stairs proposed adjacent to the southern side boundary extend within the required 2.5 m setback.

These areas of non-compliance will be partially screened from the adjoining property to the south (38A Wentworth Rd) by 3 Kentia Palms and 2 Golden Cane Palms. Further, the two projections beyond the general alignment of the southern elevation and the timber fascia to the first floor addition to the eastern wing provide necessary modulation and articulation. Accordingly, these

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areas of non-compliance are considered to be satisfactory in terms of visual impact upon the adjoining property.

In terms of other amenity impacts upon the adjoining property associated with the non-compliances, solar access will be maintained in accordance with Council's requirements and views and privacy will be not be significantly affected.

The non-compliances do not prevent adequate deep soil landscaping from being provided adjacent to the southern side boundary and do not impact upon existing significant landscaping.

Accordingly, no objection is raised in relation to these areas of non-compliance.

### **Streetscape performance criteria**

The provisions of Part 5.1 Council's RDCP 2003 require development to contribute to cohesive streetscapes and desirable pedestrian environments. For reasons advanced elsewhere in this report, the proposal will not have any significant adverse visual impact upon the Wentworth Rd and Vaocluse Rd streetscapes subject to the 2 m high by 23 m long masonry wet edge to the pool to the roof of the western module facing Vaocluse Rd, being faced in stone in order to mitigate the visual impact of the structure upon the locality (see **Condition C.1c**) and as such is considered to be satisfactory in terms of the provisions of Part 5.1 of WRDCP 2003.

### **Building size and location performance criteria**

The objectives of Part 5.2 of Woollahra RDCP 2003 involve:

- 5.2.1 The preservation of established tree and vegetation networks and the promotion of new networks by ensuring sufficient areas for deep soil planting and sufficient setbacks between the rear of buildings;*
- 5.2.2 To ensure the size and location of buildings allow for the sharing of views and preserve privacy and sunlight access for neighbouring residents;*
- 5.2.3 Ensure the form and scale of development is not excessive and maintains the continuity of building forms and front setbacks in the street; and*
- 5.2.4 To limit site excavation and minimise cut and fill to ensure that building form relates to the topography and to protect the amenity of adjoining properties both during and after construction.*

The proposal involves the following non-compliances with the relevant performance criteria stipulated under Part 5.2 of WRDCP 2003:

#### ***Eastern (front) setback of main dwelling-house-40 Wentworth Rd***

The following elements of the main dwelling-house do not comply with Council's front setback requirement of 20.7 m, this being the average front setback of the 2 adjoining properties as stipulated under performance criterion 5.2.2:

- The proposed glass awning to the eastern elevation is setback 2-7.8 m from the Wentworth Rd street alignment;
- The proposed first floor addition to the eastern wing maintains the existing front setback of 4.4-11 m; and



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- The northern section of the proposed in-fill addition located between the existing eastern and western wings is setback 4.5-10 m from the Wentworth Rd street alignment.

These areas of non-compliance are supported as it is considered that they will not have any significant adverse visual impact upon the streetscape for the following reasons:

- The glass awning structure is largely transparent in design and will be screened by a Jacaranda tree proposed adjacent to the Wentworth Rd frontage;
- The additional bulk associated with the proposed first floor addition to the eastern wing of the main dwelling-house is mitigated via the articulated timber fascia design; and
- The bulk associated with the proposed in-fill addition is mitigated via the articulated timber louvre design and existing and proposed landscaping.

### ***Floor space ratio***

The proposed floor space ratio of 0.93:1 (3140 m<sup>2</sup>) exceeds Council's maximum of 0.55:1 (1853 m<sup>2</sup>) by approximately 1287 m<sup>2</sup>. However approximately 564 m<sup>2</sup> is located below existing ground level which will not have external adverse amenity impacts upon neighbouring properties or the streetscape. The residual above-ground non-compliance is approximately 723 m<sup>2</sup>.

The amended proposal, as conditioned, achieves consistency with the objectives stated above, including the provision of adequate deep soil landscaping, the protection of significant trees, satisfactory hydrogeological impacts and the satisfactory maintenance of the amenity of adjoining properties in terms of views, solar access and privacy.

The proposal will not significantly adversely affect the visual amenity of the public domain or adjoining properties due the following:

- The proposed new western module at 47-49 Vacluse Rd will present a maximum of 2 storeys to the adjoining properties to the south and north (45 and 51 Vacluse Rd) and to the Vacluse Rd streetscape, which is compatible with the scale of adjoining development;
- The proposed extensions to the dwelling-house at 40 Wentworth Rd will present a maximum of 2 storeys to the adjoining property to the south (38A Wentworth Rd) and to the Wentworth Rd streetscape, which is compatible with the scale of the 2-3 storey adjoining development at 38A Wentworth Rd;
- The proposal provides approximately 1249.5 m<sup>2</sup> (37.1% of the site) of deep soil landscaped area which complies with Council's minimum requirement of 1179 m<sup>2</sup> (35% of the site); and
- The proposal provides adequate boundary setbacks as discussed above.

Accordingly, no objection is raised in relation to the non-compliance in this instance.

### ***Building footprint***

The proposal involves a building footprint of 49% of the site area (1653 m<sup>2</sup>), which exceeds Council's maximum building footprint control of 30% of the site area (1010.6 m<sup>2</sup>). The non-compliance equates to 642.4 m<sup>2</sup>.

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The purposes of the building footprint control is to:

- *limit site coverage and excavation of new buildings*
- *maximise on-site infiltration of stormwater*
- *maximise deep soil landscape areas*
- *maintain natural landform*
- *maintain subterranean water flows*
- *protect significant vegetation*
- *minimise the likelihood of land instability due to excavation.*

The amended proposal, as conditioned, achieves consistency with the purposes of the building footprint and the objectives stated above, including the provision of adequate deep soil landscaping, the protection of significant trees, satisfactory geotechnical/hydrogeological impacts and the satisfactory maintenance of the amenity of adjoining properties in terms of views, solar access and privacy.

The proposal will not significantly adversely affect the visual amenity of the public domain or adjoining properties due the following:

- The proposed new western module at 47-49 Vacluse Rd will present a maximum of 2 storeys to the adjoining properties to the south and north (45 and 51 Vacluse Rd) and to the Vacluse Rd streetscape, which is compatible with the scale of adjoining development;
- The proposed extensions to the dwelling-house at 40 Wentworth Rd will present a maximum of 2 storeys to the adjoining property to the south (38A Wentworth Rd) and to the Wentworth Rd streetscape, which is compatible with the scale of the 2-3 storey adjoining development at 38A Wentworth Rd;
- The proposal provides approximately 1249.5 m<sup>2</sup> (37.1% of the site) of deep soil landscaped area which complies with Council's minimum requirement of 1179 m<sup>2</sup> (35% of the site); and
- The proposal provides adequate boundary setbacks as discussed above.

Accordingly, no objection is raised in relation to the non-compliance in this instance.

### ***Solar access***

The following solar access provisions of Woollahra RDCP 2003 are relevant:

- *Performance Criterion C5.2.13 requires sunlight to be provided to at least 50% (or 35 m<sup>2</sup> with minimum dimension 2.5 m, whichever is smaller) of the main ground level private open space of adjacent properties for a minimum of two hours between 9 am and 3 pm on June 21. Where existing overshadowing is greater than this, sunlight is not to be further reduced.*
- *Performance Criterion C5.2.14 requires solar access to be maintained to north-facing windows of adjoining properties for a minimum of 3 hours between 9am and 3pm on June 21.*

Shadow diagrams submitted with the application demonstrate compliance with these requirements.

### **Open space and landscaping performance criteria**

The provisions of Part 5.3 of Council's WRDCP 2003 require the protection of significant existing vegetation and the provision of adequate deep soil landscaping.

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Council's Tree and Landscape Officer has recommended **Conditions B.2-B.4, E.1, E.2 & E.4-E.6** which are designed to protect existing significant trees and to ensure the adequate contribution of the proposal to the landscape setting of the locality.

The proposal provides approximately 1249.5 m<sup>2</sup> (37.1% of the site) of deep soil landscaped area which complies with Council's minimum requirement of 1179 m<sup>2</sup> (35% of the site).

Performance criterion 5.3.16 requires swimming pool is to be located at the rear of properties. The proposed swimming pool is located on top (part of the roof) of the proposed western module. The pool is integrated into the design of the western module. It is recommended that the 2 m high by 23 m long masonry wet edge to the pool to the roof of the western module facing Vacluse Rd, be required to be faced in stone in order to mitigate the visual impact of the structure upon the locality (see **Condition C.1c**). Subject to this condition, it is considered that the proposed pool location will not have any significant adverse visual impacts upon the amenity of the locality. Accordingly, no objection is raised relation to this area of non-compliance.

The proposal, as conditioned, is considered to be satisfactory with regard to the provisions of Part 5.3 of Council's RDCP 2003.

### **Fences and walls performance criteria**

Objective 5.4.1 requires fences and walls to improve the amenity for existing and new residents & to contribute positively to the streetscape and adjacent buildings. Performance criterion 5.4.5 states that the height of front fences is limited to 1.2 m. The proposal involves the following non-compliances:

- Two new 1.7 m high metal picket vehicular entry gates to the Wentworth Rd frontage;
- A 1.7 m high 8.1 m long section of rendered masonry front fence between the 2 vehicular entry gates to the Wentworth Rd frontage;
- The 1.7 m high masonry infilling of 2 existing pedestrian entrances to the Wentworth Rd frontage;
- The erection of a 2.4 m high metal security fence 1.2-1.8 m in from and parallel to the Wentworth Rd frontage; and
- The 2.1 m high metal picket front fencing and vehicular entrance gates to the Vacluse Rd frontage.

The non-compliances are considered to be acceptable in this instance as the masonry components are consistent with the existing front fence, the metal picket vehicular gates, front fence to Vacluse Rd and the security fence to Wentworth Rd are of adequate transparency and landscaping to both street frontages will provide adequate screening of the structures.

Performance criterion 5.4.10 states that the height of side fences is limited to 1.8 m. The proposed new side boundary fencing involves heights of 1-1.6 m.

### **Views performance criteria**

The provisions of Part 5.5 of WRDCP 2003 require the protection and enhancement of public views and to encourage view sharing as a means of ensuring equitable access to views from private

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dwellings. The proposal is considered to be satisfactory with regard to the provisions of Part 5.5 of WRDCP 2003 having no significant impact upon the private or public views.

### **Energy efficiency performance criteria**

The provisions of Part 5.6 of Council's RDCP 2003 requires the consideration of the appropriateness of the building design and orientation and use of landscaping in order to provide adequate solar access to the subject and adjoining properties and to minimise energy consumption.

The proposal achieves adequate solar access to the main private open space areas and internal rooms where possible. The proposal includes BASIX certification (see **Conditions C.3, H.2 & I.1**).

The proposal is considered to be satisfactory with regard to the provisions of Part 5.6 of Council's RDCP 2003.

### **Stormwater management performance criteria**

The provisions of Part 5.7 of Council's RDCP 2003, require adequate stormwater management. Subject to the imposition of **Condition C.12** the proposal is satisfactory with regard to the provisions of Part 5.7 of Council's RDCP 2003.

### **Acoustic and visual privacy performance criteria**

The provisions of Part 5.8 of Council's RDCP 2003 require the maintenance of the visual and acoustic privacy of adjoining properties and to ensure adequate privacy for the occupants of the proposed dwelling-house. Performance criterion 5.8.5 requires windows to habitable rooms that have a direct sightline to a habitable room window of an adjoining dwelling within 9 m be required to be treated to prevent overlooking. Performance criterion 5.8.6 requires lines of sight from balconies and terraces to the habitable room windows and private open space areas of adjoining properties to be screened. Objective 5.8.1 requires the acoustic and visual privacy of neighbouring properties to be adequately maintained.

The proposal adequately maintains the visual privacy of adjoining properties via use of planters, screening structures, the orientation of windows away from adjoining properties and adequate separation distances. No additional privacy measures are considered necessary.

With regard to acoustic privacy impacts, the proposal is considered to be acceptable in terms of maintaining the acoustic privacy of adjoining properties subject to **Conditions C.14 & I.4** requiring the acoustic attenuation of the swimming pool and other mechanical plant.

The proposal, as conditioned, is considered to be satisfactory with regard to the provisions of Part 5.8 of Council's RDCP 2003.

### **Car parking and driveways performance criteria**

The proposal is considered to be satisfactory with regard to the provisions of Part 5.9 of Council's RDCP 2003.

### **Site facilities performance criteria**

The proposal is considered to be satisfactory with regard to the provisions of Part 5.10 of Council's RDCP 2003, in terms of the provision of site facilities subject to **Condition C.5** requiring adequate waste storage.

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## **Harbour foreshore development performance criteria**

Section 5.11 WRDCP 2003 requires Council to take into consideration the visual impact of a development upon Sydney Harbour and adjoining foreshore areas. The proposal is considered to be satisfactory in this regard.

Performance criterion 5.11.5 states that swimming pools are not to be elevated more than 300 mm above ground level and are to complement the character of the harbour and foreshore. No portion of the pool's casing is to be visible from the water. Performance criterion 5.11.6 states that swimming pools are to be suitably treated to complement the natural foreshore and where visible, are to be sandstone and incorporate suitable screen planting.

The proposed swimming pool is located on top (part of the roof) of the proposed western module. The pool is integrated into the design of the western module. Whilst the structure will be predominantly screened from the harbour by trees within the grounds of Strickland House, as discussed previously, it is recommended that the 2 m high by 23 m long masonry wet edge to the pool to the roof of the western module facing Vaucluse Rd, be required to be faced in stone in order to mitigate the visual impact of the structure upon the locality (see **Condition C.1c**).

Subject to this condition, the proposal will not have any significant adverse visual impact upon the amenity of the locality or harbour. Accordingly, no objection is raised in relation to this area of non-compliance.

## **Access and mobility performance criteria**

The provisions of Part 5.13 of Council's RDCP 2003 require the provision of adequate access to the development by all people in the community including people with disabilities. The proposal is considered to be satisfactory in this regard.

## **11.2 DCP for off-street car parking provision and servicing facilities**

The proposal is considered to be satisfactory with regard to the provisions of this policy.

## **12. APPLICABLE REGULATIONS**

Clause 92 of the EPA Regulation 2000 requires that Council take into consideration AS 2601-1991: The demolition of structures. This requirement is addressed by **Condition E.18**.

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

All likely impacts of the proposal have been assessed elsewhere in this report.

## **14. THE SUITABILITY OF THE SITE**

The site is suitable for the proposed development, as conditioned.

## **15. SUBMISSIONS**

The initial scheme was advertised and notified in accordance with Council's Advertising and Notifications DCP. An objection was received from:

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**1. M Rolfe-president of the Sydney Harbour Association PO Box 265, Rose Bay 2029.**

The objection is on the basis that the pool wet edge will have an adverse impact on Strickland House and Vacluse Rd.

It is recommended that the 2 m high by 23 m long masonry wet edge to the pool to the roof of the western module facing Vacluse Rd, be required to be faced in stone in order to mitigate the visual impact of the structure upon the locality (see **Condition C.1c**).

The replacement application (as defined by Clause 90 of the *Environmental Planning and Assessment Regulation 2000*) was not renotified under clause 5.1 of the DCP because, having considered clause 9 of the DCP, the replacement application is substantially the same development as the original proposal and considered to have no greater environmental impact upon neighbours.

**15. CONCLUSION**

This assessment has considered the application in terms of the relevant matters under Section 79C of the Environmental Planning and Assessment Act and other relevant considerations and the proposal is considered to be satisfactory in this regard, subject to conditions.

**16. DISCLOSURE STATEMENTS**

Under S.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.

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

THAT the Joint Regional Planning Panel, as the consent authority, grant development consent to Development Application 310/2010 for the consolidation of the 3 sites, the demolition of the existing pool and alterations and additions to the existing dwelling-house at 40 Wentworth Rd; the total demolition of the existing dwelling-houses at 49 & 47 Vacluse Rd and the erection of a 2 storey module linked to the dwelling-house on 40 Wentworth Rd containing 13 off-street car parking spaces, gymnasium, guest accommodation and pool structure; landscaping and siteworks subject to the following conditions:

**A. General Conditions**

**A.1 Conditions**

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

**A.2 Definitions**

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

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*Applicant* means the applicant for this Consent.

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

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

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

*Council* means Woollahra Municipal Council

*Court* means the Land and Environment Court

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

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

- a. The collection of stormwater,
- b. The retention of stormwater,
- c. The reuse of stormwater,
- d. The detention of stormwater,
- e. The controlled release of stormwater; and
- f. Connections to easements and public stormwater systems.

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

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

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

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

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

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

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

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

*Site* means the land being developed subject to this consent.

*WLEP 1995* means *Woollahra Local Environmental Plan* 1995

*Work* for the purposes of this consent means:

- a. the use of land in connection with development,

- b. the subdivision of land,
- c. the erection of a building,
- d. the carrying out of any work,
- e. the use of any site crane, machine, article, material, or thing,
- f. the storage of waste, materials, site crane, machine, article, material, or thing,
- g. the demolition of a building,
- h. the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- i. the delivery to or removal from the *site* of any machine, article, material, or thing, or
- j. the occupation of the *site* by any person unless authorised by an *occupation certificate*.

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

### A.3 Approved Plans and supporting documents

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

Reference	Description	Author/Drawn	Date(s)
DA 02 0100 A, DA 02 1101 A, DA 02 1102 A, DA 02 1103 A, DA 02 1104 B, DA 02 1105 A, DA 02 2000 A, DA 02 2001 A, DA 02 3000 A & DA 02 3001 B	Architectural Plans	Tzannes Associates	25/06/10 (A) 28/07/10 (B)
Sheets 1 & 2 of 2	Landscape Plan	Paul Bangay Garden Design	22nd June 2010.
	Arboricultural Assessment Report	Tree Transplanters Australia	October 2009
Addendum 1	Arboricultural Assessment Report	Tree Transplanters Australia	November 2009
Ref: TA/VPB170510	Arboricultural Assessment Report	Tree Transplanters Australia	May 2010
Ref: TTA/VPB220610 Addendum 2 (V3)	Arboricultural Assessment Report	Tree Transplanters Australia	June 2010
Ref: TTA/VPB230610 Addendum 3	Arboricultural Assessment Report	Tree Transplanters Australia	June 2010
Ref: TTA/VPB220610 Addendum 2 (V3), 2 Parts 7.1.1 to 7.1.8	Tree Management Plan	Tree Transplanters Australia Report	June 2010
Attachment F	Tree Transplanting Methodology Statement	Transplanters Australia Report	October 2009
Dwgs No. HDA01/P3 to HDA09/P3	Stormwater disposal concept plan	Whipps – Wood Consulting	28/06/2010
PSM1399.R1 Rev1	Geotechnical and Environmental Report	Pells Sullivan Meynink	26/11/2009
PSM1399.L2Rev1	Addendum to the Geotechnical and Environmental Report	Pells Sullivan Meynink	11/06/2010
	Traffic and Parking Assessment	Halcrow	25/06/2010

**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*.)

#### **A.4 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.

### **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*.

#### **B.2 Establishment of Tree Protection Zones**

Before the demolition of any building or construction, a Tree Protection Zone (TPZ) shall be established around the tree/s to be retained not less than the distance shown in the schedule below.

##### **a) Tree Protection Zone areas**

<b>Council Ref No</b>	<b>Species</b>	<b>Location</b>	<b>Radius from Trunk (Metres)*</b>
23	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Top of rock escarpment, north boundary of 40 Wentworth	4
29	<i>Lophostemon confertus</i> (Brush Box)	Adjacent to west boundary of 47 Vacluse Road	6
30	<i>Lophostemon confertus</i> (Brush Box)	Adjacent to west boundary of 47 Vacluse Road	6
31	<i>Lophostemon confertus</i> (Brush Box)	Adjacent to west boundary of 47 Vacluse Road	6
TC	<i>Angophora costata</i> (Sydney Red Gum)	Road reserve of Wentworth Road	4

**Note:** Where this condition relates to street trees and the fence cannot be placed at the specified radius, the fencing is to be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways and footpaths, is protected.

- 
- a) Tree Protection Fencing shall be installed at the perimeter of the Tree Protection Zones outlined above. The Tree Protection Fence shall consist of 1.8m high temporary chain wire panels supported by steel stakes. They shall be fastened together and supported to prevent sideways movement. The fence shall have a lockable opening for access. The trees' woody roots shall not be damaged during the installation of the Tree Protection Fencing.
  - b) The area within the Tree Protection Zone shall be kept free of weeds and grass, and mulched to a depth of 70mm for the duration of works.
  - c) Tree Protection Signage shall be attached to each Tree Protection Zone and displayed in a prominent position. The signs shall be repeated at 10m intervals or closer where the fence changes direction. The signage shall be installed prior to the commencement of works on-site and shall be maintained in good condition for the duration of the works. Each sign shall advise the following details:-
    - i. This fence has been installed to prevent damage to the trees and their growing environment. **Access is restricted.**
    - ii. If access, encroachment or incursion into this Tree Protection Zone is deemed essential, prior authorisation is required by the Site Arborist.
    - iii. *Name, address, and telephone number* of the developer
  - d) The Tree Protection Zone shall exclude the following activities, except as amended by the following conditions:
    - i. Excavations and trenching
    - ii. Modification of existing soil levels
    - iii. Cultivation of the soil
    - iv. Mechanical removal of vegetation
    - v. Soil disturbance
    - vi. Movement of natural rock
    - vii. Storage of materials, plant or equipment
    - viii. Erection of site sheds
    - ix. Affixing of signage or hoarding to the trees
    - x. Preparation of building materials
    - xi. Disposal of waste materials and chemicals
    - xii. Movement of pedestrian or vehicular traffic
    - xiii. Temporary or permanent location of services, or the works required for their installation
    - xiv. Any other activities that may cause damage to the trees

### **B.3 Demolition and Construction Management Plan.**

A Demolition and Construction Management Plan in relation to existing trees on/adjacent the subject site must be submitted to Council for further assessment. The plan must consider and make allowance for all construction operations which will be undertaken within the vicinity of existing trees. In particular the plan is to include:

- a) Drawings and method statement showing details of hoarding and scaffold construction and pruning required to accommodate hoarding and scaffolding;
- b) Movement of heavy machinery, lifting cranes, Pier drilling gantry etc.;
- c) How trees will be protected from storage and movements of materials;
- d) Site construction access, temporary crossings and movement corridors on the site defined;
- e) Contractors carparking;

- f) Phasing of construction works;
- g) The space needed for all foundation excavations and construction works;
- h) All changes in ground level;
- i) Space for cranes, plant, scaffolding and access during works;
- j) Space for site sheds, temporary latrines (including any drainage) and other temporary structures;
- k) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete and
- l) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas.

#### **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. As a minimum the following intervals of site inspections by a qualified arborist must be made.

<b>Stage of arboricultural inspection</b>	<b>Minimum considerations at each stage</b>	<b>Additional visits required determined by arborist notes/comments</b>
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 for ongoing monitoring of tree vigour.

#### **B.5 Recording of existing dwelling-house on 40 Wentworth Rd prior to any partial demolition**

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 by the NSW Heritage Office or by another suitably qualified consultant who must demonstrate a working knowledge of archival principles.

The archival record is to include:

- a) The submitted heritage report including the heritage assessment undertaken in accordance with the current guidelines of the NSW heritage office, the statement of significance, the dilapidation report and the reasons for demolition.
- b) A site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties.
- c) Annotated measured drawings: floor plans, roof plans, elevations and at least one cross section, each at a scale of 1:100.

- d) 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.

The archival recode must include:

- Context Photographs- A recording of each site, place or movable item or collection in its context;
- Relationship of Buildings on the Site to Each Other;
- Individual Building or Structures- Photographs of each façade with details where appropriate including but not limited to: eaves, soffits, rainwater heads, downpipes, window reveals and sills, doorways and steps, and balustrades;
- Internal Spaces- Images should be taken in a sequence to show all internal elevations, including floors and ceilings, where possible. Special attention should be placed on structural elements, fittings and any movable items.

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

The full archival recording is to be submitted to the satisfaction of Council's heritage officer prior to the commencement of demolition, works and prior to the issue of a Construction Certificate. The original will be retained by Council and a copy will be provided to the Woollahra Local History Library.

These photographic records must be submitted to Council prior to the demolition or removal of any part of the building and landscape elements to be demolished.

**Note:** The NSW Heritage Office Guidelines can be downloaded free of charge from [http://www.heritage.nsw.gov.au/docs/info\\_photographicrecording.pdf](http://www.heritage.nsw.gov.au/docs/info_photographicrecording.pdf)

## 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* must be amended and the *Construction Certificate* plans and specification, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail:

- a) In order to maintain views to 38A Wentworth Rd, no tree, shrub or any building or other structure, whether permanent or temporary, shall at any time be cultivated or erected, built or placed or permitted to be or grow in the two areas shown as bubbled on Dwg DA 02-1104, revision A prepared by Tzannes Associates, above reduced level 46 m and 45.5 m (RL 46 & 45.5) Australian Height Datum.
- b) In order to maintain the symmetry of the Wentworth Rd internal entry, the 2 large pots flanking the entry are to be retained.
- c) The masonry wet edge to the pool is to be faced in stone.

**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.

## 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> Use Calculator: <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 their 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> as a consequence of the doing of anything to which the consent relates.	\$261,234	No	T600
<b>Tree Damage Security Deposit –</b> Making good any damage caused to any public tree as a consequence of the doing of anything to which the consent relates.	\$2860	No	T600
<b>DEVELOPMENT LEVY</b> under Woollahra Section 94A Development Contributions Plan 2005 This plan may be inspected at Woollahra Council or downloaded from our website <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> .			
Development Levy	\$129,617 + Index Amount	Yes, quarterly	T94
<b>INSPECTION FEES</b> under section 608 of the Local Government Act 1993			
Security Administration Fee	\$180	No	T16

Public Road and Footpath Infrastructure Inspection Fee (\$138 Fee)	\$406	No	T45
Public Tree Management Inspection Fee	\$166	No	T95
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	<b>\$394,463</b> <b>Plus any relevant indexed amounts and long service levy</b>		

### **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 2005 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).

### **Deferred periodic payment of section 94A levy under the Woollahra Section 94A Development Contributions Plan 2005**

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.

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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.

### **C.3 BASIX commitments**

The *applicant* must submit to the *Certifying Authority* BASIX Certificate A87055 with any application for a *Construction Certificate*.

**Note:** Where there is any proposed change in the BASIX commitments the applicant must submit of a new *BASIX Certificate* to the *Certifying Authority* and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (See: Clauses 145 and 146 of the *Regulation*) the applicant will be required to submit an amended development application to *Council* pursuant to section 96 of the Act.

All commitments in the *BASIX Certificate* must be shown on the *Construction Certificate* plans and specifications prior to the issue of any *Construction Certificate*.

**Note:** Clause 145(1)(a1) of the *Environmental Planning & Assessment Regulation 2000* provides: "A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires,"

### **C.4 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:

- a) The existing crossing on Wentworth Road is to be fully removed and any disturbed area of footpath and K&G are to be reinstated in accordance with Council's standard drawing RF3.
- b) The second crossing west of the existing crossing, on Wentworth Road is to be constructed in accordance with Council's standard drawing RF2 and is to be 3.5m wide.
- c) The two existing crossings on Vacluse Road are to be fully removed and the footpath and K&G are to be reinstated in accordance with Council's standard drawing RF3.
- d) Two new crossings on Vacluse Road are to be constructed. The both crossings are to have a width of 4.5m.
- e) A design longitudinal surface profile for all proposed driveways must be submitted for assessment.

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**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*.

## **C.5 Waste Storage - Single Dwelling**

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

- a) A storage area for 1 x 120 litre general wastes bin, one x 240 litre green waste bin, two x recycling crates behind the building line or within non-habitable areas of the dwelling
- b) A path for wheeling bins between the waste and recycling storage area and the collection point free of steps and kerbs and having a maximum grade of 1:8.

## **C.6 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 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.



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**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

## C.7 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.

## C.8 Structural Adequacy of Existing Supporting Structures

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

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

## C.9 Professional Engineering Details

The *Construction Certificate* plans and specifications, required by clause 139 of the *Regulation*, must include detailed *professional engineering* plans and 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 specifications must be submitted to the *Certifying Authority* with the application for any *Construction Certificate*.

## C.10 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.

### **C.11 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.

### **C.12 Stormwater management plan (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 Whipps – Wood Consulting, dated 28/06/2010, Dwgs No. HDA01/P3 to HDA09/P3 other than amended by this and other conditions;
  - (b) The discharge of stormwater, by direct connection, to Council's inground stormwater system;
  - (c) The construction of a 200m<sup>3</sup> rainwater tank (in lieu of OSD)
  - (d) Compliance the objectives and performance requirements of the BCA;
  - (e) Any rainwater tank required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*, and
  - (f) General compliance with the Council's draft Development Control Plan Stormwater Drainage Management (draft version 1.1 public exhibition copy dated 14/12/2006).

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

### **Layout plan**

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

It must include:

- All pipe layouts, dimensions, grades, lengths and material specification,
- 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.

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.

## **C.13 Light & 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](#).

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## C.14 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 noise from the operation of mechanical plant and equipment will not exceed the background noise level when measured at any boundary of the site.

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)).

## C.15 Tree Management Details

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

- trees to be numbered in accordance with these conditions,
- shaded green where required to be protected and retained,
- shaded yellow where required to be transplanted,
- shaded blue where required to be pruned,
- shaded red where authorised to be removed and,
- references to applicable tree management plan, arborists report, transplant method statement or bush regeneration management plan.

## C.16 Surrender of consent (s80A(1)(b) & s80A(5) of the Act)

A notice of surrender of DA 625/09 dated 12 April 2010 must be provided to Council in writing by the owner of the land in compliance with Clause 97 of the *Regulation*. No *Construction Certificate* must be issued until *Council* has acknowledged in writing that this condition has been satisfied.

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

### D.1 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

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

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

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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.

## **D.2 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):

38A Wentworth Rd/43-45 Vacluse Rd  
51 Vacluse Rd.

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
- 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

## **D.3 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

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- 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) Protect Trees, Bushland and Public Open Space:
- Show the location of all Tree Protection (Exclusion) Zones as required within the conditions of this development consent.
  - The storage of building materials in or access through the # Reserve will not be permitted without prior approval by Council.

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.

#### **D.4 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.

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**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.

## D.5 Erosion and Sediment Controls – Installation

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

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

Where there is any conflict The Blue Book takes precedence.

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

**Note:** The “Do it Right On Site, Soil and Water Management for the Construction Industry” publications can be downloaded 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.

## D.6 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

- 
- a. the vertical height above footpath level of the structure being demolished is less than 4.0 m; or
  - b. 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

- a. extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
- b. 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
- c. together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.

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

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

## D.7 Site Signs

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

“Erection of signs

1. 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.
2. 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.
3. 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.
4. 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.



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5. 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."

**Note:** *PCA* and *principal contractors* must also ensure that signs required by this clause are erected and maintained (see clause 227A which imposes a penalty exceeding \$1,000).

**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 of the *Regulation*.

## **D.8 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.

## **D.9 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:

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- i. appointed a principal certifying authority for the building work, and
    - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - b1. the principal certifying authority has, no later than 2 days before the building work commences:
    - i. notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
    - ii. 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
  - b2. the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
    - i. 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
    - ii. notified the principal certifying authority of any such appointment, and
    - iii. 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
    - iv. 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*.

## D.10 Notification of Home Building Act 1989 requirements

- a. For the purposes of section 80A (11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.
- b. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
  - i. in the case of work for which a *principal contractor* is required to be appointed:
    - the name and licence number of the principal contractor, and
    - the name of the insurer by which the work is insured under Part 6 of that Act,
  - ii. in the case of work to be done by an owner-builder:
    - the name of the owner-builder, and
    - if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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- c. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.
  - d. This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws.

#### **D.11 Establishment of boundary location, building location and datum**

Prior to the commencement of any work the principal contractor or owner builder must ensure that a surveyor registered under the *Surveying 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.

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

#### **E.1 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 excavation or *work* within the required Tree Protection Zone(s). The Tree Protection Zone(s) must be maintained during all *development work*.
- b) Where excavation encounters tree roots with a diameter exceeding 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*.

## E.2 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
23	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Top of rock escarpment, north boundary of 40 Wentworth
29	<i>Lophostemon confertus</i> (Brush Box)	Adjacent to west boundary of 47 Vacluse Road
30	<i>Lophostemon confertus</i> (Brush Box)	Adjacent to west boundary of 47 Vacluse Road
31	<i>Lophostemon confertus</i> (Brush Box)	Adjacent to west boundary of 47 Vacluse Road

- Trees on Council Land

Council Ref No	Species	Location	Tree Value
TC	<i>Angophora costata</i> (Sydney Red Gum)	Road reserve of Wentworth Road	\$2860.00

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

- b) The following trees must be transplanted and successfully established in the location(s) indicated on the approved landscape plan:

Council Ref No	Species	Location	Height (metres)
1	<i>Washingtonia robusta</i> (Washington Palm)	Refer Tree Removal/Retention Plan	9
3	<i>Strelitzia Nicolai</i> (Giant Bird of Paradise)	Refer Tree Removal/Retention Plan	6
4	<i>Strelitzia Nicolai</i> (Giant Bird of Paradise)	Refer Tree Removal/Retention Plan	7
5	<i>Washingtonia robusta</i> (Washington Palm)	Refer Tree Removal/Retention Plan	18
6	<i>Washingtonia robusta</i> (Washington Palm)	Refer Tree Removal/Retention Plan	9
7	<i>Phoenix dactylifera</i> (Date Palm)	Refer Tree Removal/Retention Plan	4
8	<i>Phoenix dactylifera</i> (Date Palm)	Refer Tree Removal/Retention Plan	3

<b>Council Ref No</b>	<b>Species</b>	<b>Location</b>	<b>Height (metres)</b>
9	<i>Dracaena draco</i> (Dragon Tree)	Refer Tree Removal/Retention Plan	4
10	<i>Howea forsteriana</i> (Kentia Palm)	Refer Tree Removal/Retention Plan	4
11	<i>Howea forsteriana</i> (Kentia Palm)	Refer Tree Removal/Retention Plan	4
12	<i>Howea forsteriana</i> (Kentia Palm)	Refer Tree Removal/Retention Plan	6
13	<i>Howea forsteriana</i> (Kentia Palm)	Refer Tree Removal/Retention Plan	4
14	<i>Howea forsteriana</i> (Kentia Palm)	Refer Tree Removal/Retention Plan	4
21	<i>Dracaena draco</i> (Dragon Tree)	Refer Tree Removal/Retention Plan	2.5
22	<i>Dracaena draco</i> (Dragon Tree)	Refer Tree Removal/Retention Plan	3
25	<i>Lepidozamia peroffskyana</i> (Pineapple Zamia)	Refer Tree Removal/Retention Plan	2
32	<i>Washingtonia robusta</i> (Washington Palm)	Refer Tree Removal/Retention Plan	7
33	<i>Washingtonia robusta</i> (Washington Palm)	Refer Tree Removal/Retention Plan	9
34	<i>Washingtonia robusta</i> (Washington Palm)	Refer Tree Removal/Retention Plan	9

The above trees shall be transplanted in accordance with the Tree Transplanting Methodology Statement Attachment F of the Transplanters Australia report, date October 2009.

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

c) The following trees may be removed:

<b>Council Ref No</b>	<b>Species</b>	<b>Location</b>	<b>Height (metres)</b>
2	<i>Magnolia x soulangeana</i> (Saucer Magnolia)	Refer Tree Removal/Retention Plan	5
15	<i>Cupressus sempervirens</i> "Stricta" (Pencil Pine)	Refer Tree Removal/Retention Plan	5
16	<i>Cupressus sempervirens</i> "Stricta" (Pencil Pine)	Refer Tree Removal/Retention Plan	5
17	<i>Cupressus sempervirens</i> "Stricta" (Pencil Pine)	Refer Tree Removal/Retention Plan	5
18	<i>Cupressus sempervirens</i> "Stricta" (Pencil Pine)	Refer Tree Removal/Retention Plan	5
19	<i>Cupressus sempervirens</i> "Stricta" (Pencil Pine)	Refer Tree Removal/Retention Plan	5
20	<i>Cupressus sempervirens</i> "Stricta" (Pencil Pine)	Refer Tree Removal/Retention Plan	5
24	<i>Livistonia australis</i> Cabbage (Tree Palm)	Refer Tree Removal/Retention Plan	25
26	<i>Castanospermum australe</i> (Black Bean)	Refer Tree Removal/Retention Plan	7

27	<i>Lophostemon confertus</i> (Brush Box)	Refer Tree Removal/Retention Plan	10
28	<i>Syzygium australe</i> (Scrub Cherry)	Refer Tree Removal/Retention Plan	10
1	<i>Magnolia grandiflora</i> “Little gem” (Magnolia Variety)	Within 47 Vacluse Road (Refer Tree Removal/Retention Plan)	4
2	<i>Magnolia grandiflora</i> “Little gem” (Magnolia Variety)	Within 47 Vacluse Road (Refer Tree Removal/Retention Plan)	5
3	<i>Magnolia grandiflora</i> “Little gem” (Magnolia Variety)	Within 47 Vacluse Road (Refer Tree Removal/Retention Plan)	4
4	<i>Syzygium australe</i> (Scrub Cherry)	Within 47 Vacluse Road (Refer Tree Removal/Retention Plan)	6
5	<i>Syzygium australe</i> (Scrub Cherry)	Within 47 Vacluse Road (Refer Tree Removal/Retention Plan)	6
6	<i>Syzygium australe</i> (Scrub Cherry)	Within 47 Vacluse Road (Refer Tree Removal/Retention Plan)	6
7	<i>Camellia japonica</i> (Camellia)	Within 47 Vacluse Road (Refer Tree Removal/Retention Plan)	5
8	<i>Syzygium australe</i> (Scrub Cherry)	Within 47 Vacluse Road (Refer Tree Removal/Retention Plan)	5
9	<i>Acacia fimbriata</i> (Fringed Wattle)	Within 47 Vacluse Road (Refer Tree Removal/Retention Plan)	6
10	<i>Acacia fimbriata</i> (Fringed Wattle)	Within 47 Vacluse Road (Refer Tree Removal/Retention Plan)	6
11	<i>Acacia fimbriata</i> (Fringed Wattle)	Within 47 Vacluse Road (Refer Tree Removal/Retention Plan)	6
12	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Within 47 Vacluse Road (Refer Tree Removal/Retention Plan)	5

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

### E.3 Replacement trees which must be planted

Replacement planting shall be installed in accordance with the Landscape Plan Sheets 1 & 2 designed by Paul Bangay Garden Design, dated 22nd June 2010. Replacement plants shall be maintained in a healthy and vigorous condition until they are 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. All replacement trees are to be grown in accordance with NATSPEC.

Species/Type	Planting Location	Container Size or Size of Tree (@ time of planting)	Minimum Dimensions at Maturity
<i>Angophora hispida</i> (Dwarf Apple)	Road reserve of Wentworth Road	100 Litre	8m height x 5m spread
All replacement trees are to be NATSPEC grown.			

#### E.4 Paving in the vicinity of trees

The path extending between Trees 29 and 30 must be constructed utilising materials/techniques designed to ensure that alterations (cut/fill) to the existing grade do not occur and roots are retained and protected. The path shall be designed to:

- Adjust the finished levels so that the sub base level is built on top of roots within the TPZ
- Achieve a reduction of the need for sub-base compaction by placing a geo-textile fabric over roots to protect soil displacement
- Increasing the strength of the paving material and minimising the reliance on the sub-base for strength
- The paved surface shall be made of a permeable material

#### E.5 Level changes in the vicinity of trees

Level changes shall not occur within the specified radius from the trunks of the following trees.

Council Ref No:	Species	Location	Radius from Trunk (metres)
23	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Top of rock escarpment, north boundary of 40 Wentworth	4
29	<i>Lophostemon confertus</i> (Brush Box)	Adjacent to west boundary of 47 Vaucluse Road	6
30	<i>Lophostemon confertus</i> (Brush Box)	Adjacent to west boundary of 47 Vaucluse Road	6
31	<i>Lophostemon confertus</i> (Brush Box)	Adjacent to west boundary of 47 Vaucluse Road	6
TC	<i>Angophora costata</i> (Sydney Red Gum)	Road reserve of Wentworth Road	4

#### E.6 Footings in the vicinity of trees

Footings positioned within the specified radius of the following trees shall be constructed using an isolated pier and beam construction method. Excavations for the piers shall be located so that no root with a diameter equal to or greater than 20mm is severed or damaged. The smallest possible area is to be excavated which allows construction of the pier. All beams are to be placed clear of the existing grade and designed to bridge all roots to be retained.

All piers shall be positioned outside the Structural Root Zone of trees to be retained.

Council Ref No:	Species	Location	Radius from centre of trunk (metres)
23	<i>Ficus rubiginosa</i> (Port Jackson Fig)	Top of rock escarpment, north boundary of 40 Wentworth	4
29	<i>Lophostemon confertus</i> (Brush Box)	Adjacent to west boundary of 47 Vaucluse Road	6
30	<i>Lophostemon confertus</i> (Brush Box)	Adjacent to west boundary of 47 Vaucluse Road	6
31	<i>Lophostemon confertus</i> (Brush Box)	Adjacent to west boundary of 47 Vaucluse Road	6

### E.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 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.8 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.

### E.9 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:

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



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

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:

- (a) erect a structure or carry out a work in, on or over a public road, or
- (b) dig up or disturb the surface of a public road, or
- (c) remove or interfere with a structure, work or tree on a public road, or
- (d) pump water into a public road from any land adjoining the road, or
- (e) 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:

- “1. For fee or reward, transport waste over or under a public place
- 2. Place waste in a public place
- 3. Place a waste storage container in a public place.”

Part E Public roads:

- “1. 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
- 2. 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.”

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 used as a footway.

## E.10 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;
- g) <insert or delete such controls as may be necessary in the circumstances of the consent>

**Note 1:** See [http://www.epa.nsw.gov.au/small\\_business/builders.htm](http://www.epa.nsw.gov.au/small_business/builders.htm) for additional information.

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## E.11 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.

## E.12 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*.

## E.13 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.

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If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the *professional engineer* as the maximum acceptable peak particle velocity an audible alarm must activate such that the *principal contractor* and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the *professional engineer* and any further work recommencing the event must be recorded and the cause of the event identified and documented by the *professional engineer*.

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

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

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

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

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

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

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

## **E.14 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 1:** 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 2:** 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.

### **E.15 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.

### **E.16 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;

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- 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 buildings are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

#### **E.17 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)

#### **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.

#### **E.19 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.

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## E.20 Hours of Work –Amenity of the neighbourhood

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

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

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

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

**Note:** The delivery and removal of plant, equipment and machinery associated with wide loads subject to RTA and Police restrictions on their movement 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)

## E.21 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*.

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**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.

## **E.22 Dust Mitigation**

Dust mitigation must be implemented in accordance with “*Dust Control - Do it right on site*” published by the Southern Sydney Regional Organisation of Councils.

This generally requires:

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

**Note 1:** “*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 2:** 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 3:** 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.

## **E.23 Rainwater Tank Storage – Installation**

1. Water is to be collected from the roof only.
2. All plumbing and drainage work is to be undertaken by a licensed plumber in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage 3<sup>rd</sup> Edition 2006.
3. Where reticulated water supply is available, cross connection control and backflow prevention shall be in accordance with the requirements of Sydney Water.
4. Overflow from the rainwater tank is to be directed to the stormwater drainage system in accordance with Councils requirements.
5. Rainwater tank inlets should be screened and tanks provided with tight fitting access covers to prevent ingress of foreign matter and are to be child proofed.
6. The rainwater tank is to be mosquito proofed to prevent breeding.
7. Signage for rainwater tank outlets and pipes shall be in accordance with the requirements of Sydney Water.

## **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 Amenity Landscaping**

The *owner or principal contractor* must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

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

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## F.2 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 must comply with Australian Standard AS 2890.1 – “Off-Street car parking.”
- d. All stormwater drainage 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*.

## F.3 Commissioning and Certification of Public Infrastructure Works

The *principal contractor* or *owner builder* must submit, to the satisfaction of Woollahra Municipal Council, certification from a *professional engineer* that all public infrastructure works have been executed in compliance with this consent and with Council’s *Specification for Roadworks, Drainage and Miscellaneous Works* dated January 2003.

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

## 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.



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## **F.5 Letter Box(es)**

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

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

## **F.6 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 3<sup>rd</sup> Edition 2006, AS/NZS 3500 and NSW Health “*Rainwater Tanks*” brochure available from NSW Health or their website at [www.health.nsw.gov.au](http://www.health.nsw.gov.au).

*Maintenance of the rainwater tank system, including the backflow prevention devices, is the responsibility of the property owner/occupier.*

## **F.7 Consolidation of allotments**

The allotments known as 40 Wentworth Rd and 47 and 49 Vacluse Rd are to be consolidated to form one allotment. The plan of the consolidated allotments is to be prepared by a registered surveyor and registered with Land and Property Information (NSW).

Evidence of registration is to be submitted to Council's satisfaction prior to the issue of an Occupation Certificate.

## **F.8 Street Numbering**

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

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

## **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 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.

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**Note:** This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the *Final Occupation Certificate*.

## **H.2 Road Works (including footpaths)**

The following works must be completed to the satisfaction of Council, in compliance with Council's "Specification for Roadworks, Drainage and Miscellaneous Works" dated January 2003 unless expressly provided otherwise by these conditions at the *principal contractor's* or *owner's* expense:

- stormwater pipes, pits and connections to public stormwater systems within the *road*;
- driveways and vehicular crossings within the *road*;
- removal of redundant driveways and vehicular crossings;
- new footpaths within the *road*;
- relocation of existing power/light pole
- relocation/provision of street signs
- new or replacement street trees;
- 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.
- new or reinstated kerb and guttering within the *road*; and
- new or reinstated road surface pavement within the *road*.

**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.

## **H.3 Fulfillment of BASIX commitments – Clause 154B of the Regulation**

All BASIX commitments must be effected in accordance with the BASIX Certificate A87055.

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

## **H.4 Removal of Ancillary Works and Structures**

The *principal contractor* or *owner* must remove from the land and any adjoining public place:

- a. The site sign;
- b. Ablutions;
- c. Hoarding;
- d. Scaffolding; and
- e. Waste materials, matter, article or thing.

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

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

### **I.1 Maintenance of Landscaping**

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

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

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

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

### **I.2 Maintenance of BASIX commitments**

All BASIX commitments must be maintained in accordance with the BASIX Certificate A87055.

**Note:** This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.

### **I.3 Outdoor lighting – Residential**

Outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminaire must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with table 2.1 of AS 4282.

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

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

### **I.4 Noise from mechanical plant and equipment**

Noise from the operation of mechanical plant and equipment must not exceed *background noise* when measured at the nearest lot boundary of the site. Where noise sensitive receivers are located within the site, noise from the operation of mechanical plant and equipment must not exceed *background noise* when measured at the nearest strata, stratum or community title boundary.

**Reason:** 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.5 View Corridor Maintenance (38A Wentworth Rd)**

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In order to maintain views to 38A Wentworth Rd, no tree, shrub or any building or other structure, whether permanent or temporary, shall at any time be cultivated or erected, built or placed or permitted to be or grow in the two areas shown as bubbled on Dwg DA 02-1104, revision A prepared by Tzannes Associates, above reduced level 46 m and 45.5 m (RL 46 & 45.5) Australian Height Datum.

## **J. Advisings**

### **J.1 Criminal Offences – Breach of Development Consent & Environmental laws**

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

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

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

#### **Warnings as to potential maximum penalties**

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

#### **Warning as to enforcement and legal costs**

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order. This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

**Note:** The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the *Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. You can obtain further information from the following web sites:  
<http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the Attorney General's [www.agd.nsw.gov.au](http://www.agd.nsw.gov.au).

### **J.2 Dial before you dig**



The *principal contractor, owner builder* or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and Dial 1100 Before You Dig or visit [www.dialbeforeyoudig.com.au](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.

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### J.3 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 appoint 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.

### J.4 Building Standards - Guide to Standards and Tolerances

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

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

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

<http://www.fairtrading.nsw.gov.au/pdfs/corporate/publications/dft242.pdf>

Council, as the PCA or otherwise, does not adjudicate building contract disputes between the *principal contractor*, contractors and the owner.

### J.5 Workcover requirements

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

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

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

Location: Workcover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

### J.6 Asbestos Removal, Repair or Disturbance

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit

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will not be granted without a current Workcover licence. All removal, repair or disturbance of or to asbestos material must comply with:

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

## **J.7 Lead Paint**

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

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

Lead 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.

## **J.8 Dividing Fences**

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

## **J.9 Appeal**

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **David Booth, Senior Assessment Officer** on (02) 9391 7119. However, if you wish to pursue your rights of appeal in the Land & Environment Court you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing. This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the Section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed commissioner having the full authority to completely determine the matter at the conference.

## **J.10 Release of Security**

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

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satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.

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

Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed. Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the Bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

**Note:** The Application for Refund of Security form can be downloaded from <http://www.woollahra.nsw.gov.au/pdf/Forms/Planning/RefundofSecurity.pdf>

### **J.11 Recycling of Demolition and Building Material**

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

### **J.12 Owner Builders**

Under the *Home Building Act 1989* any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from the Office of Fair Trading. See [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au).

### **J.13 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.

### **J.14 Dilapidation Report Condition**

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

- a) The dilapidation report will be made available to affected property owners on requested and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.



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- 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.

### **J.15 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.

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



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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.

D Booth  
**SENIOR ASSESSMENT OFFICER**

N Economou  
**TEAM LEADER**

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## ANNEXURES

1. Plans and elevations.
2. Development Engineer's referral response.
3. Trees and Landscape Officer's referral response.
4. Heritage Officer's referral responses.