

## **Without Prejudice Conditions of Consent**

### **A. General Conditions**

#### **A.1 Conditions**

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

Standard Condition: A1

#### **A.2 Definitions**

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

***Applicant*** means the applicant for this Consent.

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

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

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

***Council*** means Woollahra Municipal Council

***Court*** means the Land and Environment Court

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

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

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

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

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

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

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

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

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

**Road** has the same 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:

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

**Note: Interpretation of Conditions** - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council. Standard Condition: A2

### A.3 Approved Plans and supporting documents

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

Reference	Description	Author/Drawn	Date(s)
AR.DA.02 REV A	Architectural Plans	Tanner Architects	May 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*.)

Standard Condition: A5

#### **A.4 Prescribed Conditions**

Prescribed conditions in force under the *Act* and *Regulation* must be complied with.

**Note:** It is the responsibility of those acting with the benefit of this consent to comply with all prescribed conditions under the *Act* and the *Regulation*. Free access can be obtained to all NSW legislation at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

Standard Condition: A30

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

#### **B.1 Recording of Heritage Items prior to any 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 record 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.

<b>Material</b>	<b>Minimum Requirement</b>	<b>Repository</b>
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)  
Standard Condition: B2

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

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

- a) Tree Protection Zone areas

<b>Council Ref No</b>	<b>Species</b>	<b>Location</b>	<b>Radius from Trunk (Metres)*</b>
<b>1</b>	<i>Ficus macrophylla</i> <b>Moreton Bay Fig</b>	Front – NW corner	12m
<b>3</b>	<i>Brachychiton acerifolius</i> <b>Illawarra Flame tree</b>	Side – N boundary	4.8
<b>4A</b>	<i>Cyathea cooperi</i> <b>Scaly tree fern</b>	Front – Duntrim garden bed – North end	2m
<b>6</b>	<i>Howea belmoreana</i> <b>Sentry palm</b>	Front – Duntrim garden bed	2m
<b>7</b>	<i>Trachycarpus fortunei</i> <b>Chinese Windmill palm</b>	Front – Duntrim garden bed	2m
<b>8</b>	<i>Cyathea cooperi</i> <b>Scaly tree fern</b>	Front – Duntrim garden bed	2m
<b>9</b>	<i>Phoenix canariensis</i> <b>Canary Island Date palm</b>	Front – Duntrim garden bed	2m
<b>16</b>	<i>Lophostemon confertus</i> <b>Brush Box</b>	Front – SW corner	4.8m
<b>17</b>	<i>Araucaria heterophylla</i> <b>Norfolk Island pine</b>	Front – SW corner	10.8m
<b>18</b>	<i>Glochidion ferdinandii</i> <b>Cheese tree</b>	Side – South	6m
<b>20</b>	<i>Glochidion ferdinandii</i> <b>Cheese tree</b>	Side – South	8.4m
<b>22</b>	<i>Howea belmoreana</i> <b>Sentry palm</b>	Front – Duntrim garden bed	2m
<b>22A</b>	<i>Howea belmoreana</i> <b>Sentry palm</b>	Front – Duntrim garden bed	2m
<b>23</b>	<i>Trachycarpus fortunei</i> <b>Chinese Windmill palm</b>	Front – Duntrim garden bed -South	2m
<b>24A</b>	<i>Brachychiton discolor</i> <b>Lacebark Kurrajong</b>	Rear – East boundary – North of tennis court	4.8m
<b>24B</b>	<i>Glochidion ferdinandii</i> <b>Cheese tree</b>	Rear – East boundary – South end of swimming pool	6m
<b>32</b>	<i>Ficus rubiginosa</i> <b>Port Jackson Fig</b>	Rear – North boundary	8m
<b>34</b>	<i>Lophostemon confertus</i> <b>Brush Box</b>	Side – North boundary	8m

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

<b>Council Ref No</b>	<b>Species</b>	<b>Location</b>
<b>1</b>	<i>Ficus macrophylla</i> <b>Moreton Bay Fig</b>	Front – NW corner
<b>3</b>	<i>Brachychiton acerifolius</i> <b>Illawarra Flame tree</b>	Side – N boundary
<b>4A</b>	<i>Cyathea cooperi</i> <b>Scaly tree fern</b>	Front – Duntrim garden bed – North end
<b>6</b>	<i>Howea belmoreana</i> <b>Sentry palm</b>	Front – Duntrim garden bed
<b>7</b>	<i>Trachycarpus fortunei</i> <b>Chinese</b>	Front – Duntrim garden bed

	<b>Windmill palm</b>	
<b>8</b>	<i>Cyathea cooperi</i> <b>Scaly tree fern</b>	Front – Duntrim garden bed
<b>9</b>	<i>Phoenix canariensis</i> <b>Canary Island Date palm</b>	Front – Duntrim garden bed
<b>16</b>	<i>Lophostemon confertus</i> <b>Brush Box</b>	Front – SW corner
<b>17</b>	<i>Araucaria heterophylla</i> <b>Norfolk Island pine</b>	Front – SW corner
<b>18</b>	<i>Glochidion ferdinandii</i> <b>Cheese tree</b>	Side – South
<b>20</b>	<i>Glochidion ferdinandii</i> <b>Cheese tree</b>	Side – South
<b>22</b>	<i>Howea belmoreana</i> <b>Sentry palm</b>	Front – Duntrim garden bed
<b>22A</b>	<i>Howea belmoreana</i> <b>Sentry palm</b>	Front – Duntrim garden bed
<b>23</b>	<i>Trachycarpus fortunei</i> <b>Chinese Windmill palm</b>	Front – Duntrim garden bed -South
<b>24A</b>	<i>Brachychiton discolor</i> <b>Lacebark Kurrajong</b>	Rear – East boundary – North of tennis court
<b>24B</b>	<i>Glochidion ferdinandii</i> <b>Cheese tree</b>	Rear – East boundary – South end of swimming pool
<b>32</b>	<i>Ficus rubiginosa</i> <b>Port Jackson Fig</b>	Rear – North boundary
<b>34</b>	<i>Lophostemon confertus</i> <b>Brush Box</b>	Side – North boundary

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

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

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

Standard Condition: B5

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

### **C.1 Recycling of Building Material**

Demolition of the building known as ‘Duntrim’ shall be carried out with all care taken not to damage or destroy building materials, joinery and other significant elements. This could include but is not limited to stonework, brickwork, roof tiles, roof timbers, floor timbers, timber joinery including fireplaces, skirtings, door and window leafs and frames, boarding and panelling, cupboards, shelving, and timber posts. A re-use and recycling plan shall be submitted to the satisfaction of the authority body (whether Council's Heritage Officer or the Heritage Branch) showing details of elements that are

to be demolished, and the proposals for re-use and recycling on site or redirection elsewhere, prior to the issue of a Construction Certificate. All good material from the demolition is to be retained securely on site or in a local storage facility until re-use or redirection.

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

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

Description	Amount	Indexed	Council Fee Code
<b>LONG SERVICE LEVY</b>			
under Building and Construction Industry Long Service Payments Act 1986			
<b>Long Service Levy</b> <a href="http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm">http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm</a>	Contact LSL Corporation or use online calculator	No	
<b>SECURITY</b>			
under section 80A(6) of the Environmental Planning and Assessment Act 1979			
<b>Property Damage Security Deposit</b> -making good any damage caused to any property of the Council	\$8 000	No	T115
<b>DEVELOPMENT LEVY</b>			
under Woollahra Section 94A Development Contributions Plan 2009 This plan may be inspected at Woollahra Council or downloaded at <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> .			
<b>Development Levy</b> (Section 94A)	\$5 000 + Index Amount	Yes, quarterly	T96
<b>INSPECTION FEES</b>			
under Section 608 of the Local Government Act 1993			
Security Administration Fee	\$180	No	T16
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	\$13 180 plus any relevant indexed amounts and long service levy		

### Building and Construction Industry Long Service Payment

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

### How must the payments be made?

Payments must be made by:

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

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

- The guarantee is by an Australian bank for the amount of the total outstanding contribution;
- The bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable];

- The bank agrees to pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent;
- The bank guarantee is lodged with the Council prior to the issue of the construction certificate; and
- The bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

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

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

#### **Do you need HELP indexing the levy?**

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

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

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

- The reasons given;
- Whether any prejudice will be caused to the community deriving benefit from the public facilities;
- Whether any prejudice will be caused to the efficacy and operation of this plan; and
- Whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

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

Any deferred or outstanding component of the section 94A levy will be adjusted in accordance with clause 3.13 of the plan. The applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

Standard Condition: C5

### **C.3 Professional Engineering Details**



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

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

**Note:** This does not affect the right of the developer to seek staged Construction Certificates.  
Standard Condition: C36

#### C.4 Transplant Method Statement

A Transplant Method Statement, prepared by a qualified Arborist in accordance with Councils DA Guide Annexure 8 and conforming to the conditions of this Development Consent is to be submitted to Council for approval prior to issue of the Construction Certificate. The Transplant Method Statement must address the following trees:

Council Ref No	Species	Location
4A	<i>Cyathea cooperi</i> <b>Scaly tree fern</b>	Front – Duntrim garden bed – North end
6	<i>Howea belmoreana</i> <b>Sentry palm</b>	Front – Duntrim garden bed
7	<i>Trachycarpus fortunei</i> <b>Chinese Windmill palm</b>	Front – Duntrim garden bed
8	<i>Cyathea cooperi</i> <b>Scaly tree fern</b>	Front – Duntrim garden bed
9	<i>Phoenix canariensis</i> <b>Canary Island Date palm</b>	Front – Duntrim garden bed
22	<i>Howea belmoreana</i> <b>Sentry palm</b>	Front – Duntrim garden bed
22A	<i>Howea belmoreana</i> <b>Sentry palm</b>	Front – Duntrim garden bed
23	<i>Trachycarpus fortunei</i> <b>Chinese Windmill palm</b>	Front – Duntrim garden bed -South

#### 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:

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

This condition does not apply:

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

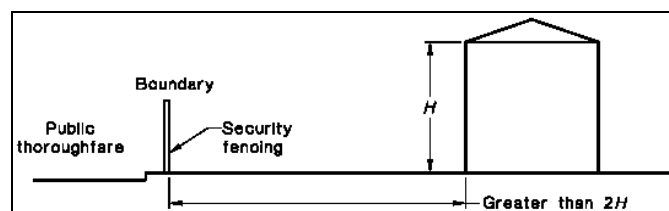
In this condition, a reference to the *BCA* is a reference to that code as in force on the date the application for the relevant construction certificate is made.

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

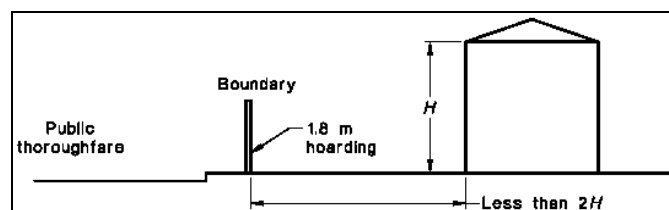
**Note:** All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.  
Standard Condition: D1

## D.2 Security Fencing, Hoarding and Overhead Protection

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



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

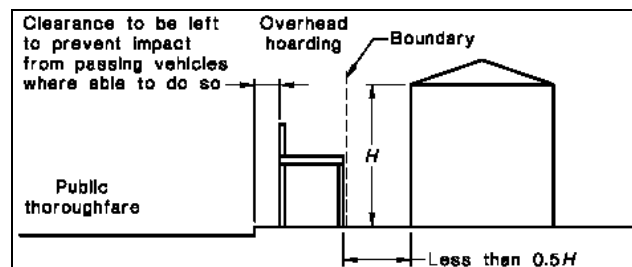


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either:

- 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;
- c) 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
- d) 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/oheadprotstructs.htm>.

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

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

Standard Condition: D11

### D.3 Site Signs

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

Clause 98A of the *Regulation* provides:

#### **Erection of signs**

- For the purposes of section 80A (11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.

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

Clause 227A of the Regulation provides:

#### ***Signs on development sites***

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

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

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

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

Standard Condition: D12

## **D.4 Toilet Facilities**

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

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

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

In this condition:

***accredited sewage management facility*** means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management

facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the *Local Government (Approvals) Regulation 1993*.

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

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

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

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

## D.5 Erosion and Sediment Controls – Installation

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

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

Where there is any conflict The Blue Book takes precedence.

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

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

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

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

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

Standard Condition: D14

## D.6 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)

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

- a) A construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
  - Appointed a principal certifying authority for the building work, and

- Notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- c) the principal certifying authority has, no later than 2 days before the building work commences:
- Notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
  - Notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
- Appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
  - Notified the principal certifying authority of any such appointment, and
  - Unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - Given at least 2 days' notice to the council of the person's intention to commence the erection of the building.

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

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

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

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

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

Standard Condition: D15

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

### **E.1 Compliance with Australian Standard for Demolition**

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

Standard Condition: E2

### **E.2 Requirement to notify about new evidence**

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site

contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifying Authority..

Standard Condition: E4

### E.3 Critical Stage Inspections

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

Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*. *critical stage inspections* means the inspections prescribed by the *Regulations* for the purposes of section 109E(3)(d) of the *Act* or as required by the *PCA* and any PCA Service Agreement.

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

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

Standard Condition: E5

### E.4 Hours of Work –Amenity of the neighbourhood

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

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

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

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

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

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

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

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

## **E.5 Maintenance of Vehicular and Pedestrian Safety and Access**

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

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

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

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

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

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

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

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



- connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

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

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

Standard Condition: E7

## E.6 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*.

Standard Condition: E8

## E.7 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

<b>Council Ref No</b>	<b>Species</b>	<b>Location</b>	<b>Dimension (metres)</b>
<b>1</b>	<i>Ficus macrophylla</i> <b>Moreton Bay Fig</b>	Front – NW corner	25 x 25
<b>3</b>	<i>Brachychiton acerifolius</i> <b>Illawarra Flame tree</b>	Side – N boundary	12 x 8
<b>4A</b>	<i>Cyathea cooperi</i> <b>Scaly tree fern</b>	Front – Duntrim garden bed – North end	5 x 3
<b>6</b>	<i>Howea belmoreana</i> <b>Sentry palm</b>	Front – Duntrim garden bed	15 x 3
<b>7</b>	<i>Trachycarpus fortunei</i> <b>Chinese Windmill palm</b>	Front – Duntrim garden bed	6 x 3
<b>8</b>	<i>Cyathea cooperi</i> <b>Scaly tree fern</b>	Front – Duntrim garden bed	15 x 3
<b>9</b>	<i>Phoenix canariensis</i> <b>Canary Island Date palm</b>	Front – Duntrim garden bed	10 x 6
<b>16</b>	<i>Lophostemon confertus</i> <b>Brush Box</b>	Front – SW corner	10 x 8
<b>17</b>	<i>Araucaria heterophylla</i> <b>Norfolk Island pine</b>	Front – SW corner	30 x 10
<b>18</b>	<i>Glochidion ferdinandii</i> <b>Cheese tree</b>	Side - South	12 x 9
<b>20</b>	<i>Glochidion ferdinandii</i> <b>Cheese tree</b>	Side – South	12 x 12
<b>22</b>	<i>Howea belmoreana</i> <b>Sentry palm</b>	Front – Duntrim garden bed	15 x 3
<b>22A</b>	<i>Howea belmoreana</i> <b>Sentry palm</b>	Front – Duntrim garden bed	15 x 3
<b>23</b>	<i>Trachycarpus fortunei</i> <b>Chinese Windmill palm</b>	Front – Duntrim garden bed - South	5 x 3
<b>24A</b>	<i>Brachychiton discolor</i> <b>Lacebark Kurrajong</b>	Rear – East boundary – North of tennis court	14 x 8
<b>24B</b>	<i>Glochidion ferdinandii</i> <b>Cheese tree</b>	Rear – East boundary – South end of swimming pool	12 x 10
<b>32</b>	<i>Ficus rubiginosa</i> <b>Port Jackson Fig</b>	Side – North boundary	10 x 8
<b>34</b>	<i>Lophostemon confertus</i> <b>Brush Box</b>	Side – North boundary	12 x 12

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

<b>Council Ref No</b>	<b>Species</b>	<b>Location</b>	<b>Dimension (metres)</b>
<b>4A</b>	<i>Cyathea cooperi</i> (Scaly tree fern)	Front – Duntrim garden bed – North end	5 x 3

6	<i>Howea belmoreana</i> <b>Sentry palm</b>	Front – Duntrim garden bed	15 x 3
7	<i>Trachycarpus fortunei</i> <b>Chinese Windmill palm</b>	Front – Duntrim garden bed	6 x 3
8	<i>Cyathea cooperi</i> <b>Scaly tree fern</b>	Front – Duntrim garden bed	15 x 3
9	<i>Phoenix canariensis</i> <b>Canary Island Date palm</b>	Front – Duntrim garden bed	10 x 6
22	<i>Howea belmoreana</i> <b>Sentry palm</b>	Front – Duntrim garden bed	15 x 3
22A	<i>Howea belmoreana</i> <b>Sentry palm</b>	Front – Duntrim garden bed	15 x 3
23	<i>Trachycarpus fortunei</i> <b>Chinese Windmill palm</b>	Front – Duntrim garden bed - South	5 x 3

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

c) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
1A	<i>Olea europea</i> var. <i>africana</i> <b>African Olive</b>	Front – NW corner	10 x 10
2	<i>Olea europea</i> var. <i>africana</i> <b>African Olive</b>	Front – NW corner	5 x 5
4	<i>Camellia japonica</i> <b>Camellia</b>	Front – Duntrim garden bed	4 x 3
5	<i>Schefflera actinophylla</i> <b>Umbrella tree</b>	Front – Duntrim garden bed	8 x 12
10	<i>Magnolia grandiflora</i> <b>Bull Bay Magnolia</b>	Front – Duntrim garden bed	
11	<i>Olea europea</i> var. <i>africana</i> <b>African Olive</b>	Front – Duntrim garden bed	10 x 8
12	<i>Syagrus romanzoffianum</i> <b>Cocos palm</b>	Front – Duntrim garden bed	10 x 4
13	<i>Jacaranda mimosifolia</i> <b>Jacaranda</b>	Front – Duntrim garden bed	10 x 8
14	<i>Persea americana</i> <b>Avocado</b>	Front – Adj to nurse quarters	6 x 5
15	<i>Persea americana</i> <b>Avocado</b>	Front – Adj to nurse quarters	6 x 5
19	<i>Ligustrum lucidum</i> <b>Large-leaved Privet</b>	Side – South	12 x 10
21	<i>Yucca</i> sp. <b>Yucca</b>	Side – South	5 x 2
24	6 x <i>Olea europea</i> var. <i>africana</i> <b>African Olive</b>	Rear – East boundary	Average 10 x 6
25	<i>Celtis occidentalis</i> <b>Hackberry</b>	Rear – SE corner	10 x 8
26	<i>Ailanthus altissima</i> <b>Tree of Heaven</b>	Rear – SE corner	10 x 8
27	<i>Olea europea</i> var. <i>africana</i> <b>African Olive</b>	Rear – East boundary	10 x 8
28	<i>Ailanthus altissima</i> <b>Tree of Heaven</b>	Rear – East boundary	12 x 8
29	<i>Olea europea</i> var. <i>africana</i> <b>African Olive</b>	Rear – East boundary	10 x 8
30	<i>Cinnamomum camphora</i> <b>Camphor Laurel</b>	Rear – North east corner	10 x 8
31	3 x <i>Ailanthus altissima</i> <b>Tree of Heaven</b>	Rear – SE corner of Duntrim	Average 12 x 8
33	<i>Celtis occidentalis</i> <b>Hackberry</b>	Side – North boundary	6 x 4

<b>35</b>	<i>Banksia sp.</i> <b>Banksia</b>	Rear – NE corner of Duntrim	7 x 5
<b>36</b>	<i>Callistemon sp.</i> <b>Bottle Brush</b>	Rear – NE corner of Duntrim	6 x 4
<b>38</b>	<i>Celtis occidentalis</i> <b>Hackberry</b>	Side – South boundary	10 x 8

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

## E.8 Archaeological material

Archaeological material uncovered during the works such as archaeological elements associated with the former villa Glanworth, or former outbuildings and gardens would need to be recorded and possibly conserved, and as such, all demolition, excavation and foundation work needs to be executed with care. Should any archaeological elements be uncovered, finds are to be recorded in situ by a suitably qualified archaeologist according to best industry practice, and their significance assessed under accepted industry criteria before continuation of building works.

## E.9 Erosion and Sediment Controls – Maintenance

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

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

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



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

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

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

Standard Condition: E15

## E.10 Disposal of site water during construction

The principal contractor or owner builder must ensure:

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

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

Standard Condition: E17

## E.11 Placement and use of Skip Bins

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

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

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

Standard Condition: E21

## E.12 Prohibition of burning

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

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

Standard Condition: E22

## E.13 Dust Mitigation

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

This generally requires:

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

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

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

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

Standard Condition: E23

## **E.14 Waste minimisation and management – Demolition**

In order to maximise resource recovery and minimise residual waste from demolition activities:

- the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work
- an area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements)
- provide separate collection bins and/or areas for the storage of residual waste
- clearly ‘signpost’ the purpose and content of the bins and/or storage areas
- implement measures to prevent damage by the elements, odour, health risks and windborne litter
- minimise site disturbance, limiting unnecessary excavation

When implementing the SWMMP the applicant must ensure:

- footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval
- any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act (1997)*
- waste is only transported to a place that can lawfully be used as a waste facility
- generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW
- evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained

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

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

**F.1 Occupation Certificate (section 109M of the Act)**

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

**Note:** New building includes an altered portion of, or an extension to, an existing building.  
Standard Condition: F1

**G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate**

No relevant conditions.

**H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))**

**H.1 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*.  
Standard Condition: H12

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

No relevant conditions.

**J. Miscellaneous Conditions**

No relevant conditions.

**K. Advisings**

**K.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 is also a criminal offence.

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

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

#### Warnings as to potential maximum penalties

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

#### Warning as to enforcement and legal costs

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

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

Standard Advising: K1

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



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

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

Standard Advising: K2

## **K.3 NSW Police Service and Road Closures**



The Rose Bay Local Area Command closely aligns with the boundaries of the Woollahra local government area.

Council and Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Traffic Sergeant, Paddington Police Station, 16 Jersey Road, Paddington. Phone No.: 0283568299 or Fax No.: 0283568211.

**Warning:** If you partial or full close a road without compliance with Council and Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution.  
Standard Advising: K4

#### **K.4 Builders Licences and Owner Builders Permits**

Section 81A of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appointed a *principal contractor* for residential building work who must be the holder of a contractor licence.

Further information can be obtained from the NSW Office of Fair Trading website about how you obtain an owner builders permit or find a principal contractor (builder): <http://www.dft.nsw.gov.au/building.html> .

The Owner(s) must appoint the PCA. The PCA must check that Home Building Act insurance is in place before the commencement of building work. The Principal Contractor (Builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the Home Building Act 1989 for the residential building work.

Standard Condition: K5

#### **K.5 Building Standards - Guide to Standards and Tolerances**

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

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

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

The Guide can be down loaded from:

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

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

Standard Condition: K6

## **K.6 Workcover requirements**

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

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

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

Location: Workcover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address:

WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

Standard Condition: K7

## **K.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.

Standard Advising: K9

## **K.8 Asbestos Removal, Repair or Disturbance**

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

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

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

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

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

Standard Advising: K8

## **K.9 Decommissioning of fire protection systems**

Decommissioning of any Halon extinguishers and fixed flooding systems must be carried out by a technician authorised under the *Ozone Protection Act* 1989.

Yellow portable fire extinguishers contain halon. From 31 December 1995, use or possession of these extinguishers without approval has been illegal.

Standard Advising: K12

## **K.10 Appeal**

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Larissa Holbert, Assessment Officer, on (02) 9391 7046.

However, if you wish to pursue your rights of appeal in the Land & Environment Court you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

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

Standard Condition: K14

## **K.11 Release of Security**

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

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

security to complete the works to its satisfaction if the works do not meet Council's requirements.

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

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

Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the Bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

**Note:** The Application for Refund of Security form can be downloaded from  
<http://www.woollahra.nsw.gov.au/pdf/Forms/Planning/RefundofSecurity.pdf>  
Standard Condition: K15

## **K.12 Recycling of Demolition and Building Material**

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

Standard Condition: K17